CONSOLIDATED CLASS ACTION COMPLAINT

Plaintiffs, individually and on behalf of all others similarly situated, for their Consolidated Class Action Complaint (the “Complaint”), make the following allegations based upon information and belief, except those paragraphs relating to Plaintiffs and their purchases of the common stock of Microtune, Inc. (“Microtune” or the “Company”) which are alleged upon personal knowledge. The paragraphs alleged upon information and belief are based, in part, upon an investigation made by Plaintiffs’ counsel, which investigation included, without limitation, a review and analysis of various public statements and filings, including filings made with the Securities and Exchange Commission (“SEC”), press reports, press releases, interviews with former employees, distributors and other persons with knowledge of the subject matter herein, and the reports of securities analysts concerning or relating to the Company. Plaintiffs believe that further substantial evidentiary support for the allegations set forth below will be shown to exist after a reasonable opportunity for discovery.

NATURE OF THE ACTION
1. This is a federal securities class action brought on behalf of purchasers of the securities of Microtune, Inc. between July 23, 2001 and February 20, 2003, inclusive (the "Class Period"), and were damaged thereby, pursuing remedies under the Securities Exchange Act of 1934 (the "Exchange Act").

2. On February 20, 2003, Microtune stunned the investment community, announcing that its loss for the fourth quarter 2002, the period ending December 31, 2002, was $80.2 million, almost double the loss of $47 million it had reported in the same period the prior year, and that, despite having shipped $16.1 million of product during the fourth quarter 2002, it was reporting revenues of a mere $2.2 million "as a result of charges relating to five customers, including (a) credits granted and/or (b) lack of timely payments.” Analysts had generally expected revenues of approximately $18 million and a loss of $0.14 per share. The Company also announced that its GAAP loss of $134,264,000, of $2.66 per share, including an impairment for goodwill of $50.7 million. As a result of these developments, the Company announced that its Board of Directors directed the Audit Committee to conduct an investigation regarding the material charges during the fourth quarter 2002.

3. On July 23, 2003, the Company issued a press release, which it appended to a current report on Form 8-K, filed with the SEC on July 24, 2003, announcing that the Audit Committee completed its independent investigation regarding the accounting, financial reporting, financial controls and disclosure policies and practices of the Company. The Audit Committee engaged former SEC Director of Enforcement John Fedders ("Fedders") to conduct the investigation (the "Fedders Investigation"). Audit Committee accepted and adopted the results of the Fedders Investigation, restating its financials as described more thoroughly below and accepting the recommendations of Fedders regarding its deficient internal controls.
4. As a result of the investigation, Microtune admitted that it had “promoted itself to the investment community as a product innovator and by touting the growth of its revenue.” Microtune acknowledged that it had issued a revenue forecast each quarter, and that investors had judged the Company by whether or not it met the forecast. Stunningly, the Company confessed that “in an effort to meet its forecasts, Microtune engaged in fraudulent accounting and financial reporting practices.”

5. The Company further detailed the specifics of its fraudulent scheme. From April 2001 through 2002, Microtune “engaged in four revenue recognition practices in violation of GAAP,” including:

1. Shipments of product to customers at the end of quarters in excess of orders received at the time of shipment, including the shipment of unfinished product. The revenue was recognized even though there was no purchase order for the product shipped.

2. Extended payment terms, including “flexible payment terms,” granted to customers, including customers who were delinquent in their obligations to Microtune. The revenue was recognized despite the accounts receivable being questionable, and reserves were not established.

3. “Price protection” arrangements granted to distributors whereby (a) profits were guaranteed and (b) credits were promised if the product was resold for less than what Microtune was to be paid. While “price protection” arrangements are not improper, the revenue was recognized when it should not have been under GAAP.

4. Rights of return, or extraordinary stock rotation privileges, granted to distributors. These included the right to return any product not sold. Despite those rights of return, the revenue was recognized at the time of shipment.

6. Directly contrary to its representations during the Class Period, Microtune also admitted that, throughout the Class Period, it had “insufficient internal control policies,
insufficient procedures for the supervision of any controls, and insufficient means to detect violations of its controls or generally accepted accounting principles.”

7. On or about July 31, 2003, Microtune filed with the SEC its Form 10-K for the year ended December 31, 2002 (the “2002 10-K). In the report, the Company admitted that its previously reported financial statements for 2001 and for the quarters ended September 30, 2001, December 31, 2001, March 31, 2002, June 30, 2002 and September 30, 2002, had to be restated because revenue had been improperly recognized. In addition, the Company admitted that it had to revise its financial results for the quarter ended December 31, 2002, which had been reported in the press release dated February 20, 2003.

8. In the 2002 10-K, the Company again admitted that “...in certain instances we recognized revenue earlier than appropriate under accounting principles generally accepted in the United States (GAAP).” In addition, the Company stated the following summary findings from the inquiry:

1. We shipped product to customers at the end of quarters in excess of orders received at the time of shipment, including shipments of unfinished product. We recognized revenue for these shipments even though we had not received purchase orders for the product shipped.

2. We granted extended payment terms, including “flexible payment terms,” to customers, including customers who were delinquent in their obligations to us. We recognized revenue despite collection of the related accounts receivable being questionable, and reserves were not established.

3. We granted “price protection” arrangements to distributors whereby (a) profits were guaranteed and (b) credits were promised to our distributors if the product was resold for less than what we were to be paid. While “Price Protection” arrangements are not improper, we recognized revenue when it should not have been under GAAP.
4. We granted rights of return, or extraordinary stock rotation privileges, to our distributors. These included the right to return any product not sold. Despite these rights of return, we recognized revenue at the time of shipment.

In addition, in preparing our restated financial statements, we determined that in some cases we recognized revenue in the wrong quarter because delivery of our product was not in accordance with our customers’ shipping terms and shipment had been made to a third party warehouse rather than to our customer.

9. In the 2002 10-K, the Company revealed that, for the fourth quarter of 2002, it was taking material charges of $50.7 million for the impairment of goodwill, $46.9 million for the impairment of intangible assets associated with the Bluetooth wireless business, as well as a charge to cost of revenue of approximately $12.8 million representing excess Bluetooth wireless inventory and non-cancelable purchase obligations for wireless inventories at December 31, 2002. The intangibles and the inventory related to the technology Microtune acquired in the Transilica acquisition. As a result of an impairment evaluation performed as of October 1, 2002, the Company concluded “that our goodwill was fully impaired, and we recorded a $50.7 million impairment charge in the fourth quarter of 2002. As of December 31, 2002 we no longer have any recorded goodwill.” In addition, the Company performed an evaluation regarding the future undiscounted cash flows expected from the Bluetooth technology as of December 31, 2002. The results of that evaluation indicated “that the carrying value of the intangible assets related to our Bluetooth wireless products was fully impaired.” Consequently, the Company took an impairment charge in the fourth quarter of 2002 in the amount of $46.9 million.

10. While Microtune purchased Transilica in November 2001 to boost its own revenues, Microtune failed to disclose to investors that it had to abandon the 802.11 technology as early as February 2002, and that Bluetooth was commercially unmarketable as of that date.
Accordingly, the Transilica acquisition, valued at approximately $137,000,000.00 was almost completely worthless, a fact of which defendants were aware no later than the end of February 2002. As detailed below, Microtune knew of or recklessly disregarded facts which should have caused it to record most, if not all, of the goodwill and intangibles impairment in the quarter ended March 31, 2002.

11. In addition, in the 2002 10-K, Microtune admitted that its internal controls and procedures during the Class Period were ineffective “to provide reasonable assurance that our consolidated financial statements are fairly presented in conformity with accounting principles generally accepted in the United States (GAAP).” In particular, the Company admitted, internal controls relating to revenue recognition “were not sufficient to ensure that revenue was properly recognized under GAAP,” and Microtune’s controls and procedures with respect to the revenue recognition process “were not effective in ensuring that our existing policies and procedures were operating as intended,” and failed to “detect that in some cases representatives of Microtune agreed to terms with customers beyond our normal terms, including price protection, rights to return products unsold by customers, payment terms that were conditional on the sale or use of our products by our customer, or payment terms extended beyond our normal terms.”

12. Further, the Company admitted, the Company’s internal controls failed to detect “occurrences where quantities shipped to customers were in excess of quantities included in customer purchase orders or were shipped without valid customer purchase orders.” Microtune’s lack of internal controls and procedures allowed the Company to recognize revenue “in the wrong accounting period in some cases because delivery to our customer had not been completed due to the shipping terms of the transaction. Finally, Microtune’s internal controls and procedures failed to detect “that in some cases revenue had been recognized on shipments of
products that had not completed certain quality test procedures or were missing certain components."

13. As a direct result of the breakdown in controls and the outright fraud defendants committed, Microtune overstated revenues during the Class Period, in violation of GAAP, as follows:

<table>
<thead>
<tr>
<th>Date</th>
<th>Reported</th>
<th>Restated</th>
<th>% of Overstatement</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 30, 2001</td>
<td>15,015</td>
<td>12,148</td>
<td>23%</td>
</tr>
<tr>
<td>December 31, 2001</td>
<td>15,976</td>
<td>11,266</td>
<td>42%</td>
</tr>
<tr>
<td>March 31, 2002</td>
<td>18,243</td>
<td>18,264²</td>
<td>---</td>
</tr>
<tr>
<td>June 30, 2002</td>
<td>23,179</td>
<td>22,034</td>
<td>5%</td>
</tr>
<tr>
<td>September 30, 2002</td>
<td>24,003</td>
<td>13,543</td>
<td>77%</td>
</tr>
</tbody>
</table>

14. In the ensuing months after the Company's February 20, 2003, announcement, the Company announced that defendant Housley resigned his position as President and Chief Operating Officer of Microtune. As of May 26, 2003, defendant Housley became delinquent on two promissory notes issued to Microtune, totalling approximately $460,000.00.

15. On June 27, 2003, the Company announced that defendant Bartek resigned as Chairman of the Board and President.³ The Company disclosed that Mr. Bartek was paid

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¹ The Company admitted to overstating revenues during the second quarter of 2001, but claimed the amount was immaterial.

² In the July 23, 2002, press release, the Company stated that “[d]espite improper revenue recognition” during the first quarter 2002, “there was no negative adjustment due to the recoupings in this first quarter of revenue from the third and fourth quarters of 2001.”

³ David Bartek, defendant Bartek’s brother, joined Microtune as Chief Strategy Officer in May 2002. David Bartek’s employment with Microtune was also terminated in June 2003.
approximately $500,000.00 under his separation agreement with Microtune. In addition, the
Company will incur stock compensation expense of approximately $900,000.00 in the second
quarter 2003 in connection with Mr. Bartek's stock options which vested as of the date of the
separation agreement.

16. Also in the months following February 20, 2003, Microtune slashed more than
50% of its Bluetooth staff, and eliminated approximately 1,000 manufacturing jobs, mostly from
its manufacturing facility in the Philippines.

17. On July 2, 2003, the Company's stock was delisted from NASDAQ.

18. In August 2003, the Company announced that it was the subject of an SEC
investigation.

19. Finally, on August 12, 2003, the Company announced a new executive
management team to replace defendant Bartek as CEO, defendant Housley as COO and
defendant Richardson as CFO.

20. As a result of the announcement on February 20, 2003, the market price of
Microtune common stock declined by more than 35% of its value. The market price of
Microtune common stock declined throughout the day, closing at 1.19 per share, on relatively
huge volume of over 13.8 million shares.

21. During the Class Period, the Company's stock traded as high as $29.28 per share.
Defendants' fraudulent scheme has caused devastating losses to Plaintiffs and the other members
of the Class who purchased or otherwise acquired the Company's common stock during the
Class Period at artificially inflated prices.

JURISDICTION AND VENUE
22. The claims asserted herein arise under and pursuant to Sections 10(b) and 20(a) of the Exchange Act, (15 U.S.C. §§ 78j(b) and 78t(a)), and Rule 10b-5 promulgated thereunder (17 C.F.R. §240.10b-5).

23. This Court has jurisdiction over the subject matter of this action pursuant to § 27 of the Exchange Act (15 U.S.C. § 78aa), and 28 U.S.C. §§ 1331 and 1337.

24. Venue is proper in this Judicial District pursuant to § 27 of the Exchange Act and 28 U.S.C. § 1391(b). Many of the acts and transactions alleged herein, including the preparation and dissemination of materially false and misleading information, occurred in substantial part in this District. Additionally, the Company maintains its principal executive offices in this Judicial District.

25. In connection with the acts, conduct and other wrongs alleged in this complaint, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities exchange.

PARTIES

26. Plaintiffs, Marc D. Reasoner, Fred B. Knadler, on behalf of Lights N Such, Inc., and Warren and Betty Stewart, each purchased Microtune common stock in the open market during the Class Period as set forth in the schedules attached as Exhibit A to the Affidavit of Darren J. Check in Support of Motion of Marc D. Reasoner, Fred B. Knadler on Behalf of Lights N Such, Inc. and Warren & Betty Stewart to Consolidate Actions, to be Appointed Lead Plaintiffs and for Approval of Lead Plaintiffs’ Selection of Lead Counsel and Liaison Counsel filed with the Court on April 24, 2003, and were damaged thereby. By Order dated June 16, 2003, the Court appointed these individuals as Lead Plaintiffs in this action.
27. Defendant Microtune is a Delaware corporation with its principal place of business located at 2201 Tenth Street, Plano, TX 75074. The Company is a silicon and systems company that designs, manufactures and markets radio frequency (RF)-based solutions for the global broadband communications, automotive electronics and wireless connectivity markets.

28. The following defendants are collectively referred to herein as the “Individual Defendants” and, together with Microtune as “defendants”:

   (a) Defendant Douglas J. Bartek (“Bartek”) was, at all relevant times, Microtune’s Chairman and Chief Executive Officer.

   (b) Defendant Nancy A. Richardson (“Richardson”) served as Microtune’s Chief Financial Officer and General Counsel.

   (c) Defendant William Housley (“Housley”) served as Microtune’s President and Chief Operating Officer at all relevant times.

   (d) Defendant Everett Rogers (“Rogers”) served as Microtune’s Chief Financial Officer and Vice-President of Finance and Administration until his resignation from the Company on October 10, 2002.

29. During the Class Period, each of the Individual Defendants, as senior executive officers and/or directors of Microtune, were privy to non-public information concerning the Company’s business, finances, products, markets and present and future business prospects via access to internal corporate documents, conversations and connections with other corporate officers and employees, attendance at management and Board of Directors meetings and committees thereof and via reports and other information provided to them in connection therewith. Because of their possession of such information, the Individual Defendants knew or
recklessly disregarded the fact that adverse facts specified herein had not been disclosed to, and
were being concealed from, the investing public.

30. Each of the Individual Defendants, which the exception of defendant Rogers, is
liable as a direct participant with respect to a fraudulent scheme and course of business that
operated as a fraud or deceit on purchasers of Microtune securities by disseminating materially
false and misleading statements and/or concealing material adverse facts. The scheme deceived
the investing public regarding Microtune’s business, operations, management, and the intrinsic
value of Microtune securities and caused Plaintiffs and other members of the Class to purchase
Microtune securities at artificially inflated prices.

31. In addition, the Individual Defendants, by reason of their status as senior
executive officers and directors, were each a “controlling person” within the meaning of Section
20 of the Exchange Act and had the power and influence to cause the Company to engage in the
unlawful conduct complained of herein. Because of their positions of control, the Individual
Defendants were able to and did, directly or indirectly, control the content of various SEC
filings, press releases, and other public statements pertaining to the Company during the Class
Period.

32. The Individual Defendants, because of their positions with Microtune were
provided with copies of the Microtune’s reports and press releases alleged herein to be
misleading, prior to or shortly after their issuance and had the ability and opportunity to prevent
their issuance or cause them to be corrected. The Individual Defendants had the opportunity to
commit the fraudulent acts alleged herein. Accordingly, each of the Individual Defendants is
responsible for the accuracy of the public reports and releases detailed herein and is therefore
primarily liable for the representations contained therein.
PLAINTIFFS' CLASS ACTION ALLEGATIONS

33. Plaintiffs bring this action as a federal class action pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) on behalf of a class (the “Class”), consisting of all those who purchased the securities of Microtune between July 23, 2001, and February 20, 2003, inclusive (the “Class Period”) and who were damaged thereby. Excluded from the Class are defendants, the officers and directors of the Company, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which defendants have or had a controlling interest.

34. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Microtune securities were actively traded on the NASDAQ. While the exact number of Class members is unknown to Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs believe that there are hundreds or thousands of members in the proposed Class. However, the 2002 10-K stated that, as of June 30, 2003, there were 50,332,277 shares of common stock outstanding, with 355 holders of record and approximately 7,100 beneficial holders.

35. Plaintiffs’ claims are typical of the claims of the members of the Class, because Plaintiffs and all of the Class members sustained damages arising out of defendants’ wrongful conduct complained of herein.

36. Plaintiffs will fairly and adequately protect the interests of the Class members and have retained counsel who are experienced and competent in class actions and securities litigation.

37. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy, since joinder of all members is impracticable. Furthermore, as
the damages suffered by individual members of the Class may be relatively small, the expense and burden of individual litigation make it impossible for the members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

38. Questions of law and fact common to the members of the Class predominate over any questions that may affect only individual members, in that defendants have acted on grounds generally applicable to the entire Class. Among the questions of law and fact common to the Class are:

(a) Whether the federal securities laws were violated by defendants' acts as alleged herein;

(b) Whether the Company's publicly disseminated press releases and statements during the Class Period omitted and/or misrepresented material facts;

(c) Whether defendants breached any duty to convey material facts or to correct material acts previously disseminated;

(d) Whether the defendants acted willfully, with knowledge or recklessly, in omitting and/or misrepresenting material facts; and

(e) Whether the members of the Class have sustained damages and, if so, what is the appropriate measure of damages.

PLAINTIFFS' SUBSTANTIVE ALLEGATIONS

Microtune's Success is Measured by Its Ability to Generate Revenues

39. Microtune is a radio frequency silicon and systems company, which provides radio frequency products to the broadband communications markets. Its products are radio frequency integrated circuits and radio frequency systems, called modules, used for a variety of
broadband communications access devices, such as cable modems, PC/TVs, set-top boxes, digital TVs and other consumer electronic devices.

40. The Company was incorporated in Texas in May 1996 and began operations in August 1996. In June 2000, the Company reincorporated in Delaware. Throughout its history, the Company incurred significant losses, and, as of March 31, 2001, had an accumulated deficit of approximately $52.4 million.

41. In August 2000, Microtune completed its initial public offering, generating approximately $66 million of net proceeds. Along with the initial public offering came pressure from Wall Street to meet and beat analysts’ expectations for revenue generation. Microtune began to feel that pressure as early as the first quarter of 2001.

42. During the fourth quarter of 2000, the Company passed internal projections to analysts that called for $100-110M in revenues for 2001.

43. In the Chase H&Q report dated November 30, 2000, analysts Lipton and Landfield reported that the fourth quarter 2000 was turning out to be a difficult one for Microtune as generally poor market conditions had put significant pressure on Microtune’s stock price. Lipton and Landfield, however, stated that the demand environment for cable modems, Microtune’s key product, remained strong. As such, Chase H&Q reiterated its “Buy” rating for Microtune stock.

44. On January 26, 2001, analysts von Behren and Fetyko of Hoak Breedlove Wesneski & Co. (“HBW”), initiated coverage on Microtune with a “Buy” rating. HBW predicted that, in 2001, Microtune would generate $108 million in revenue and would finally achieve profitability with EPS of $0.06.
45. On February 28, 2001, analysts von Behren and Fetyko of HBW reported that a slow economy and weaker than expected orders from Microtune’s larger customers caused them to reduce their revenue expectations for 2001 to $95 million and their EPS production to a loss of $0.08 per share. HBW also lowered its first quarter 2001 revenue projection from $23 million to $20 million. However, because HBW expected the Company to achieve “significant design wins,” and because of Microtune’s strong “long-term competitive positioning,” they reiterated their “Buy” rating.

46. Further, in a March 5, 2001 Report, JP Morgan H&Q analysts Chen and Landfield stated:

We recommend long-term investors aggressively accumulate shares of TUNE at current levels. While the ongoing inventory correction in the cable modem supply chain has reduced near-term visibility, we believe this is fully reflected in Microtune’s current valuation.

Importantly, we believe end user demand for cable modems remains strong. We believe the current weakness in Microtune’s business is totally attributable to a temporary, though severe, inventory correction. As a result, Microtune should return to trend-line growth rates that track end-user demand in a couple quarters. (Emphasis added).

47. In a March 6, 2001 press release, in which defendants revised Microtune’s guidance to the market, defendants confirmed that, rather than a 5% quarterly increase in revenue over the fourth quarter 2000, they expected that revenues would decrease by as much as 20%. Defendant Bartek stated, in the Company’s March 6, 2001, press release, that the reason for the reduced revenues was the cancellation of a major customer’s order in the first quarter 2001, but that ‘end user demand [was] still strong.” Defendants stated however, that “customers will see orders pick up by the end of the second quarter as inventory is depleted.” The analysts
at HBW stated in their March 7, 2001, report that Microtune had revised its outlook due to cable modem inventory buildups that occurred in 2000 and would need two to four months to clear before returning to normal rates. Thus, Microtune informed analysts that inventory gluts which had put downward pressure on sales would ease by the beginning of the third quarter of 2001. Seizing on Microtune's prediction, the HBW analysts stated that, because cable modem orders would accelerate in the second half of 2001, they were leaving their revenue estimates unchanged.

48. Similarly, on April 24, 2001, HBW analysts reported that "Microtune management continues to see inventory build-up in distribution channels affecting sales in Q2 but also sees the situation relaxing in Q3 with OEMs resuming normal levels." Thus, defendants led investors to believe that order levels, and therefore revenues, would recover in the third quarter of 2001.

49. Also on April 24, 2001, JP Morgan H&Q analysts Chen and Landfield stated that a persistent inventory bubble had caused it to reduce their second quarter 2001 revenue predictions. They reported, however, that Microtune management had "stated backlog has begun to firm up..." As a result, Chen and Landfield predicted that "the worst is behind Microtune and [they] expect[ed] growth to accelerate in Q3."

50. In a June 29, 2001 press release, Microtune confirmed that it would recover during the second quarter of 2001, stating that it would meet the revenue guidance for the quarter. The press release stated:

the Company will report revenues for the second quarter of 2001 within the guidance range of $14.1 million to $15.0 million provided during the first quarter earnings call on April 23, 2001. "In light of the disappointments surrounding many technology companies' revenue guidance revisions in the past few weeks, we
felt it necessary to assure our shareholders that Microtune is on plan and will meet revenue guidance for the second quarter,” said Mr. Bartek.

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Despite continued weakness in the economy, backlog for the third quarter has increased during the second quarter. Updated guidance for the third quarter will be provided at the second quarter earnings call on July 23, 2001.

51. By early in the second quarter 2001, however, Microtune knew that the recovery it had led investors to believe would occur in the third quarter 2001 was elusive. As the Fedders Investigation disclosed, by April 2001, the Company had begun fraudulently to engage in manipulative revenue recognition practices in violation of GAAP to mask its inability to grow revenues organically in line with the expectations defendants had created.

52. As Microtune later admitted, in an effort to create artificial demand and to boost its revenue figures, defendants purposefully engaged in various schemes to increase Microtune’s revenues artificially and materially. The Company admitted that its schemes included: (1) shipping product to customers in excess of orders received at the time of shipment and recognizing revenue on the product shipped; (2) extending flexible payments terms to customers historically delinquent in paying and failing to establish appropriate reserves; and (3) improperly recognizing revenue on price protection arrangements and consignment sales.

53. To meet the revenue numbers and analysts’ expectations, defendant Housley perpetrated fraudulent schemes with Microtune’s distributors and customers, promising extended payment terms, rights of return and price protection arrangements in exchange for the distributor’s or customer’s agreement to take product. Microtune admitted that it fraudulently recorded revenue on those arrangements.

**Details of Defendants’ Fraudulent Schemes**

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54. For example, according to a former Vice President of Sales of Microtune ("Sales VP"), in the second quarter of 2001, defendants perpetrated a scheme with Memec, the Company's distributor in Korea, to take product far in excess of what it needed and far in excess of what it could sell, so that Microtune could record revenue beyond that which it had earned. The Sales VP was authorized to begin negotiations with Memec, within parameters authorized by defendant Housley which included offering terms of extended payment up to 45 days. However, it became clear to the Sales VP that the incredibly favorable terms that he was authorized to offer Memec were not enough to entice Memec to enter the transaction. Accordingly, defendant Housley took over negotiations with Memec. After several conference calls and meetings in Korea between Memec and defendant Housley, Memec agreed to take $1,000,000 of product with extended payment terms of 90 days. If Memec was able to move the product quickly, standard 30 day payment terms would then kick in. Memec was cajoled into taking product that it was certain it would be unable to move only because it was granted such attractive terms by defendant Housley. As later admitted by the Company, revenue was recognized on this type of transaction with flexible payment terms, despite the accounts receivable being questionable and despite inadequate reserves, in violation of GAAP.

55. In the second or third quarter of 2001, as outlined by the Sales VP, another fraudulent scheme to record unearned revenue was struck with BCD, the Company's representative in the United Kingdom. The Sales VP was confident that he would be able to close a deal with BCD, since BCD was his customer and they had a good business relationship. The Sales VP reported that defendant Housley again provided the parameters for negotiations with distributors and representatives, which including offering extended payment terms of 45 days. However, since BCD was unwilling to take approximately $100,000 of product on the
proffered 45 day payment terms, and the Sales VP was not authorized to offer more favorable terms, defendant Housley personally stepped in to complete the arrangement. According to the Sales VP, the scheme with BCD provided for an order of $100,000 of product at extended payment terms of at least 60 days, and a discounted price that at least covered what BCD would have made on commissions. As later admitted by the Company, as part of the Company’s fraudulent revenue recognition practices, the revenue on this “price protection” arrangement was recognized when it should not have been under GAAP.

56. Still further, in the third quarter of 2001, according to the Sales VP, defendants decided to add a second distributor in Taiwan, World Peace, Inc., solely to advance Microtune’s fraudulent scheme to record unearned revenue. According to the Sales VP, both the Sales VP and the sales manager in Taiwan were opposed to the addition of a second distributor, since the local market would not support a second distributor, and voiced their discontent to defendants. However, against the objections of both the Sales VP and the sales manager in Taiwan, defendants entered a distributorship agreement with World Peace, Inc., releasing certain “house accounts” to the distributor, resulting in increased revenue recognition for the quarter, but also resulting in decreased profit margins. The distributorship was tied into a scheme to take excess product from Microtune, including obsolete inventory. When the sales manager complained that World Peace received far more product than was agreed to, defendant Housley informed the sales manager “that was the deal.” As later admitted by the Company, Microtune shipped product to World Peace in excess of orders received at the time of shipment. Microtune then recognized revenue even though there was no purchase order for the product shipped, in violation of GAAP.
57. According to a former Director of Business Development at Microtune ("Director of Business Development"), who was developing a customer, ADB Co., in Taiwan, during the third quarter of 2001, Dynamar was brought in as a local representative to service the account. As part of the distributor arrangement with Dynamar, which was negotiated personally by defendant Housley, Microtune required Dynamar to accept additional product, including obsolete products from Temic, a company Microtune acquired in 2000. Because Dynamar was trying to get into the RF tuner business, they acquiesced in Microtune's scheme to take obsolete products and products for which Dynamar knew it did not have a market. According to the Director of Business Development, Dynamar was granted a right to return the products, and Microtune counted the transaction as a sale. According to the Director of Business Development, defendant Bartek knew about the fraudulent revenue recognition schemes, although the details were left to defendant Housley.

58. The need to show revenue affected every facet of Microtune's business, including production. According to a former high level Transilica engineer from San Diego ("Transilica Engineer"), who came to Microtune in the Transilica acquisition, Microtune usually set production requirements at the end of a quarter, based on orders received. However, according to the Transilica Engineer, Microtune's head of operations, Eddie Basso, stated in early February 2002 that, diverging from historical methods for setting production requirements, throughout 2002, production commitments for the Wireless Business Unit would be based on meeting revenue projections, with the sales department tasked to somehow make the sales before the quarter end.

59. According to the Transilica Engineer, product was often held until the last day of a quarter, so that a customer receiving defective product would not be able to return the product
before the quarter’s end. According to the Transilica Engineer, since revenue was recognized once the carrier accepted shipment, Hock Law, the head of the Microtune Wireless Business Unit, ordered shipments held back until the last day of the quarter. In fact, according to the Transilica Engineer, for the quarter ending March 31, 2002, the Wireless Business Unit was able to make revenue only within hours of the revenue recognition deadline (Midnight Plano time).

60. Still further, according to a high level source from Big Shine, a distributor of semiconductor products in Korea, in the third quarter of 2002, defendants attempted to lure Big Shine into a distribution agreement in Korea. In connection with the distributorship negotiations, Big Shine Korea allowed Microtune to conduct a credit check. In addition, at Microtune’s insistence, Big Shine prepared a pro forma order form, estimating product Big Shine believed it could sell to end users if they finally consummated a distribution agreement, but with all shipping dates deleted. However, when Microtune received the pro forma order form, Microtune immediately shipped $1,400,000 of product to Big Shine Korea. According to the high level source at Big Shine, it never executed the distributor agreement it was negotiating with Microtune, and certainly did not order the $1,400,000 of product. Big Shine did not accept shipment of the goods, and it never possessed the goods. No title ever passed. However, Microtune booked the shipment as revenue, billed Big Shine Korea and created an aging account receivable in the amount of $1,400,000.00 in the third quarter of 2002 for which it created no reserve for bad debt. According to the Big Shine source, the product still sits on a dock in Singapore.

61. According to the Transilica Engineer, during the third quarter of 2002, Microtune shipped to Memorex $3,000,000 of chips with a right of return. Memorex did indeed ultimately
return the product to Microtune. As the Company later admitted, despite the right of return granted to customers, it recognized revenue at the time of shipment, in violation of GAAP.

62. According to the Sales VP, during the last weeks of each quarter, defendant Housley conducted daily meetings to monitor what had been shipped that quarter, what the backlog was for the quarter, how much product was available for shipping that quarter, and which customers were being targeted for more business. Present at the meetings were high level executives, including Eddie Basso from manufacturing, Mike Bodwell from accounting, Barry Blount from marketing, Danae Hay from customer service and Jeff Rupp from sales. At defendant Housley’s instruction, a spreadsheet was maintained by Ms. Hay, containing four columns: (1) current revenue amount of product shipped in the quarter; (2) outstanding backlog, waiting to be billed and shipped; (3) deals in process, weighted by odds of an actual deal being negotiated before the end of the quarter; and (4) summary of what was shipped plus what could be shipped compared to the quarterly numbers. According to the Director of Business Development, the spreadsheet showed that Microtune’s revenue goals were increasingly set higher, and the goals were increasingly harder to achieve. According to the Director of Business Development, Microtune’s distributors were loaded down with product, which was working against Microtune’s goals for future quarters. According to the Sales VP, the spreadsheet was updated on a daily basis and emailed to those in attendance at the meetings. Defendant Housley manifest that he did not want the spreadsheet circulated beyond the group.

63. According to the Sales VP, as quarters progressed toward their ends, the fraudulent scheme to record unearned revenue accelerated. According to the Sales VP, the distributors understood that it was increasingly difficult for them to move Microtune’s product. By manipulating revenue using the devices which Fedders found rampant, Microtune
cannibalized its sales in future quarters. In turn, this required Microtune to extend further payments terms and increase the amount of product distributors could return. Accordingly, the extended payment terms offered by defendants ended up being much more than 90 days in order to entice distributors to take product and to avoid returning it.

64. Microtune realized that it was unable to grow revenues organically in order to meet guidance and analysts' expectations. As outlined above, Microtune embarked on a scheme to falsify its revenues. However, Microtune’s ever-expanding scheme to record unearned revenues by shipping product in excess of that ordered and by dumping obsolete product was cannibalizing legitimate sales. Stuck between a rock and a hard place, Microtune realized it would have to increase revenues through acquisitions.

**The Transilica Acquisition**

65. An additional way defendants schemed to meet guidance and analysts’ expectations was through an acquisition. Defendants were motivated to falsify the Company’s financial results to artificially inflate the price of Microtune stock to make that stock more attractive for use in acquisitions which, because of the downward pressure on Microtune’s revenues, defendants needed to consummate to grow revenues in line with expectations.

66. To grow its business and gain market share quickly, and to assuage the demands of the customers it did have, Microtune knew that it had to develop wireless capability that would meet international standards, such as the 802.11 technology.

67. On October 29, 2001, Microtune announced the acquisition of Transilica, Inc., a San Diego company that developed products for short-range wireless applications. Commenting on the acquisition, defendant Bartek stated that “[t]he deal is projected to be accretive in Q4, 2002. It will not affect Microtune’s internal projections for break-even in the back half of
2002," and that the Company expected overall revenues in 2002 to be $120,000,000, approximately double Microtune's 2001 revenues. The Company also stated that “[t]he addition of Transilica also brings high-value business assets to Microtune. . .”

68. In an interview with Electronic News on November 5, 2001, Jim Fontaine (“Fontaine”), Microtune’s chief strategy officer, stated that Microtune acquired Transilica to augment Microtune’s activity in developing 802.11 technology. Transilica’s Bluetooth technology, which was part of the acquisition, was a bonus. According to Fontaine, the two technologies would help Microtune achieve its breakeven target for the fourth quarter of 2002. Bluetooth, which defendants contended was commercially viable, would provide short-term revenues, while longer-term revenues would come from the 802.11 technology.

69. However, defendants quickly learned that Transilica did not have the capability to develop the 802.11 technology, that the Bluetooth technology Microtune acquired in the transaction was worthless and that the value of Transilica’s intangible assets were far less than Microtune carried on its books. According to the Director of Business Development, Microtune had done virtually no due diligence of Transilica prior to the acquisition.

70. In an article printed in the January 7, 2002, issue of The Dallas Morning News, Paul Brandeis, an analyst at Needham & Co., commented on the Microtune/Transilica deal as follows: “The opportunities that acquisition can bring are very favorable and positive. They can bear the fruits of that acquisition for a long time now.”

71. Further, in the January 7, 2002, The Dallas Morning News article, according to Fontaine:

    The company’s customers were asking for chips that would allow them to wirelessly spread the information received by radio-frequency tuner chips to other devices in the home.
We saw an inkling of a need there, and we started to look at it... Months later, we saw it as not only a nice-to-have, but as a must-have. We said, “we need to go out and acquire the technology to do this.”

Defendant Bartek added:

“In this radio frequency marketplace, you sow some seeds and you see a few sprouts, but you don’t see a full plant until a couple years later. In the year 2000, we had the kind of product that wouldn’t become a full plant until 2002, and we only saw it start to come out in 2001.

Now the new seed-sowing is gaining momentum.”

72. On January 31, 2002, in a press release from the Company, Microtune announced a strategy to provide RF-based enabling technology for broadband, automotive and wireless connectivity markets. In a press release, the Company stated that the core of the strategy was to expand its portfolio by combining RF, analog and baseband technologies in end-to-end solutions that would enable “ubiquitous and mobile access to broadband data and services.” First, the Company was structured into three business units: Broadband Communications, Automotive Electronics, and Wireless Connectivity, with development and engineering distributed between each business unit. Second, Microtune centralized its sales, manufacturing and corporate support services functions in order to achieve operational and marketing efficiencies. In addition, the Company planned to expand its presence in the automotive market. Finally, the Company stated:

As the final component of its strategy, Microtune will leverage silicon-based capabilities, gained with the Transilica acquisition of December 2001, to expand into the complementary wireless connectivity market across both consumer and enterprise applications. By focusing on products that enable the exchange of information using 802.11, Bluetooth(TM) and other international standards, Microtune plans to be a dominant provider of wireless
connectivity solutions for its existing broadband and automotive customers. At the same time, it expects to expand its customer base in the wireless personal area networking (WPAN) and wireless local area networking (WLAN) sectors.

73. According to the Transilica Engineer, during the early summer of 2001, Transilica hired very capable engineers to develop their 802.11 program, including Shabir Halai ("Halai"), the project's program manager. Prior to the merger, however, but after serious merger negotiations were under way, Transilica gutted its 802.11 program, redirecting personnel to its Bluetooth program. According to the Transilica Engineer, Transilica management shifted employees to the Bluetooth program to enhance the ability of Transilica's technology to generate revenue. Moreover, Transilica's Bluetooth personnel were not focused on the development of a new chip, but on Transilica's then existing chip from which, Transilica lead Microtune to believe, a nine month revenue stream could be squeezed.

74. According to the Transilica Engineer, by mid-January 2002, Halai had told Law that the 802.11 program was all but defunct. By early to mid-March 2002, Microtune halted the 802.11 program altogether and Halai was reassigned to another project. Thus, by the end of the first quarter of 2002, unbeknownst to investors, defendants had abandoned the very technology for which Microtune had purchased Transilica.

75. By February 2002, unbeknownst to investors, however, the other technology Microtune acquired in the Transilica acquisition was faring no better. Transilica and then Microtune had dedicated resources and personnel to the commercial viability of Transilica's existing Bluetooth chip, again, because it was closer to commercial viability and ultimately to providing Microtune with desperately needed revenue. According to Transilica Engineer, however, Microtune's Bluetooth chip was far from commercial viability.
76. According to Transilica Engineer, by mid-February 2002, in an effort to satisfy the demands of Taiyo Yuden, a particularly promising customer for Microtune’s Bluetooth chip, Microtune conducted a reliability test. In an effort to rush through the reliability test, they deviated from standard testing procedures, shortening the time and reducing the number of chips tested. In a standard reliability test, engineers test 77 chips, running the chips for 1,000 hours straight. Microtune tested 11 chips for 500 hours. In a standard test, if more than three chips fail, the chip fails the reliability test, and months may pass as engineers investigate the reasons for the failures and design modifications to correct any problem. Of the 11 chips Microtune tested, 5 failed after only 500 hours – an astronomical rate. According to Transilica Engineer, this rendered it likely that a large number of chips would fail in the field after shipment to end-users, the worst possible place. In that instance, Microtune could be forced to fix its products for a cost of up to 30 times the cost of the chip.

77. According to Transilica Engineer, by mid-February 2002, the Microtune employee charged with overseeing the Bluetooth project, Bjorn Barnett ("Barnett") informed Richardson and others of the severe problem with the Bluetooth chip, including that the failed chips were severely cracked and suffered extensive corrosion. Barnett sought guidance from Microtune senior executives, including Richardson, about how to handle the chip’s failure in the reliability tests. Richardson told Bjorn that Microtune would still sell the chips, but would label them as “pre-production,” not “final production” and that Microtune Corporate would handle any issues arising therefrom. Moreover, despite Barnett’s report, defendants ordered no detailed investigation.

78. According to Transilica Engineer, Microtune sold the defective chips to customers other than Taiyo Yuden during the first three quarters of 2002. Microtune derived
$6,000,000 alone in the second quarter from these defective chips. Moreover, Transilica Engineer was, among other things, responsible for documentation for the Bluetooth Chip. No one instructed him to add to the product specifications any indication that the chips were “pre-production.” Thus, customers who actually purchased the faulty chips were unaware of the severe reliability issues.

79. According to Transilica Engineer, by the end of the first quarter of 2002, defendants knew that Microtune had abandoned its 802.11 program, possessed a Bluetooth chip which was commercially unmarketable, and had shifted Bluetooth resources away from developing a better performing chip. In essence, contrary to what defendants were telling investors, the Transilica acquisition was valueless. Further, no evidence exists that Microtune created a reserve, as required by GAAP, relating to the probability that a large number of customers who purchased its Bluetooth chip would likely experience failure and look to Microtune for compensation.

80. As detailed below, throughout the Class Period, defendants issued numerous statements and filed quarterly and annual reports with the SEC which described the Company’s increasing revenues and financial performance. These statements were materially false and misleading because they failed to disclose and/or misrepresented the following adverse facts, among others: (1) that the Company had materially overstated its revenue by providing to its customers price protection arrangements, expanded rights of return and extended payment terms; (2) that the Company failed to disclose that a material portion of its revenues had not in fact been paid for; (3) that the Company was shipping product to its customers in excess of orders received; (4) that the Company lacked adequate internal controls and was therefore unable to ascertain the true financial condition of the Company; and (5) as a result of the foregoing, the
Company’s financial statements issued during the Class Period were materially false and misleading. In addition to violating Microtune’s own stated accounting policies, the improper recordation of revenue was in violation of generally accepted accounting principles ("GAAP"). This conscious decision to violate the Company’s own stated accounting policies, as well as GAAP, for more than a 2-1/2 year period serves, in part, to demonstrate the defendants’ scienter in committing the wrongs complained of herein.

**FALSE AND MISLEADING STATEMENTS**

81. The Class Period begins on July 23, 2001, when defendants issued a press release announcing the Company’s financial results for the second quarter ended June 30, 2001. The Company reported revenue of $14.5 million, in line with consensus estimates. The Company stated that it ended the quarter with $71.1 million in cash and cash equivalents and that the Company’s balance sheet “continues to show strength with minimal net cash burn and a reduction in overall inventories and accounts receivable” during the second quarter.

82. Microtune’s financial results for the second quarter of 2001, the period ending June 30, 2001, were repeated in the Company’s Report on Form 10-Q, filed with the SEC on or about August 14, 2001, which was signed by defendant Rogers. In its 10-Q, the Company stated that the financial statements were prepared “pursuant to the rules and regulations of the Securities and Exchange Commission.” In addition, the Company stated that “[i]n the opinion of management, all adjustments which are of a normal and recurring nature and are necessary for a fair presentation of the financial position, results of operations, and cash flows” for the second quarter 2001 were made.

83. The statements set forth in paragraphs 81 and 82 were materially false and misleading at the time they were made as the defendants knew or recklessly disregarded the fact
that the Company's revenues had been overstated, as set forth in paragraphs 48-50, and by purposefully engaging in the following fraudulent schemes, in violation of GAAP:

A. Shipments of product to customers at the end of quarters in excess of orders received at the time of shipment, including the shipment of unfinished product. The revenue was recognized even though there was no purchase order for the product shipped.

B. Extended payment terms, including "flexible payment terms," granted to customers, including customers who were delinquent in their obligations to Microtune. The revenue was recognized despite the accounts receivable being questionable, and reserves were not established.

C. "Price protection" arrangements granted to distributors whereby (a) profits were guaranteed and (b) credits were promised if the product was resold for less than what Microtune was to be paid. While "price protection" arrangements are not improper, the revenue was recognized when it should not have been under GAAP.

D. Rights of return, or extraordinary stock rotation privileges, granted to distributors. These included the right to return any product not sold. Despite those rights of return, the revenue was recognized at the time of shipment.

As a result of the foregoing, the Company’s financial statements issued during the Class Period were materially false and misleading.

84. In addition, the Company’s 10-Q for the period ending June 30, 2001 was false and misleading at the time it was filed as the defendants knew or recklessly disregarded the following, as detailed in the Fedders’ Investigation, (a) Microtune had insufficient internal control policies, insufficient procedures for the supervision of any controls, and insufficient means to detect violations of its controls or generally accounted accounting principles; (b)
Microtune’s system of controls and procedures for the timely and accurate issuance of periodic press releases was deficient; and (c) Microtune had no means to monitor prior public statements to detect whether an update or correction is required as new material events occur. As a result of the foregoing, the Company’s financial statements issued during the Class Period were materially false and misleading.

85. In a July 24, 2001 report, Needham analysts Brandeis and Scotto maintained their “Strong Buy” rating, noting that Microtune had beat their estimate of $14.4 million by $100,000. The Needham analysts went on to convey that Microtune management expected “revenues to increase 5% sequentially in the third quarter (to approximately $15.2 million). . . .” Further, their forecast indicated 7% revenue growth for Microtune from $14.5 million to $15.5 million. The Needham analysts reported that “[m]anagement believes that the second quarter was the trough in terms of revenues and the cable modem market should recover” or the next six months to a year.

86. Thus, even though, according to the Fedders investigation, Microtune’s overstatement of revenue for the second quarter 2001 was quantitatively immaterial, analysts would have received unfavorably even the slightest miss of management’s guidance. Indeed, according to SEC Staff Accounting Bulletin 99, the assessment of materiality necessarily involves an analysis of qualitative as well as quantitative factors. In the words of the SEC, “[M]agnitude by itself, without regard to the nature of the item and the circumstances in which the judgment has to be made, will not generally be a sufficient basis for a materiality judgment.” The SEC continued:

Evaluation of materiality requires a registrant and its auditor to consider all the relevant circumstances, and the staff believes that there are numerous circumstances in which misstatements below
5% could well be material. Qualitative factors may cause misstatements of quantitatively small amounts to be material; as stated in the auditing literature:

As a result of the interaction of quantitative and qualitative considerations in materiality judgments, misstatements of relatively small amounts that come to the auditor's attention could have a material effect on the financial statements.

Among the considerations that may well render material a quantitatively small misstatement of a financial statement item are –

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whether the misstatement masks a change in earnings or other trends

*****

whether the misstatement hides a failure to meet analysts' consensus expectations for the enterprise

*****

whether the misstatement involves concealment of an unlawful transaction.

87. On October 22, 2001, defendants issued a press release announcing the Company's financial results for the third quarter of 2001. The Company reported revenue of $15.0 million, a 4% increase over second quarter 2001. The Company stated that its balance sheet continued to show strength, ending the third quarter with $71.3 million in cash and cash equivalents, and accounts receivable totalling $10.3 million, an increase of $0.9 million over the second quarter 2001. Defendant Bartek iterated that the results could be attributed to “the technical strength and customer acceptance of our multi-market product lines,” as well as the commitment and spirit of Microtune’s employees around the world. Defendant Bartek stated that Microtune had “a team that can deliver exceptional results.”

88. Microtune’s financial results for the third quarter of 2001, the period ending September 30, 2001, were repeated in the Company’s Report on Form 10-Q, filed with the SEC on or about November 14, 2001, which was signed by defendant Rogers. In its 10-Q, the
Company stated that the financial statements were prepared “pursuant to the rules and regulations of the Securities and Exchange Commission.” In addition, the Company stated that “[i]n the opinion of management, all adjustments which are of a normal and recurring nature and are necessary for a fair presentation of the financial position, results of operations, and cash flows” for the third quarter 2001 were made.

89. The statements set forth in paragraphs 87 and 88 were materially false and misleading at the time they were made as the defendants knew or recklessly disregarded that they had overstated the Company’s revenues by $2,867,000.00, as detailed above, and by purposefully engaging in the following fraudulent schemes, in violation of GAAP:

A. Shipments of product to customers at the end of quarters in excess of orders received at the time of shipment, including the shipment of unfinished product. The revenue was recognized even though there was no purchase order for the product shipped.

B. Extended payment terms, including “flexible payment terms,” granted to customers, including customers who were delinquent in their obligations to Microtune. The revenue was recognized despite the accounts receivable being questionable, and reserves were not established.

C. “Price protection” arrangements granted to distributors whereby (a) profits were guaranteed and (b) credits were promised if the product was resold for less than what Microtune was to be paid. While “price protection” arrangements are not improper, the revenue was recognized when it should not have been under GAAP.

D. Rights of return, or extraordinary stock rotation privileges, granted to distributors. These included the right to return any product not sold. Despite those rights of return, the revenue was recognized at the time of shipment.
As a result of the foregoing, the Company’s financial statements issued during the Class Period were materially false and misleading.

90. In addition, the Company’s 10-Q for the period ending September 30, 2001 was false and misleading at the time it was filed as the defendants knew or recklessly disregarded the following, as detailed in the Fedders’ Investigation, (a) Microtune had insufficient internal control policies, insufficient procedures for the supervision of any controls, and insufficient means to detect violations of its controls or generally accounted accounting principles; (b) Microtune’s system of controls and procedures for the timely and accurate issuance of periodic press releases was deficient; and (c) Microtune had no means to monitor prior public statements to detect whether an update or correction is required as new material events occur. As a result of the foregoing, the Company’s financial statements issued during the Class Period were materially false and misleading.

91. In response to the Transilica acquisition, analysts focused on the products Microtune acquired and the revenue stream that would derive therefrom. In an October 30, 2001 report, for example, Needham analysts Brandeis and Scotto noted that Transilica had already accumulated design wins, including a contract with Memorex that would generate $30 million in 2002 and early 2003. Similarly, in a November 30, 2001 report, JP Morgan H&Q analysts predicted that Transilica revenues would benefit Microtune earlier and more significantly than previously expected.

92. In a December 7, 2001 report, Needham analysts Brandeis and Scotto predicted a significant revenue boost from the Transilica acquisition to $120 million in 2002. Adding to that prediction, Brandeis and Scotto reported, was defendants’ expectation that Microtune would announce the availability of an 802.11 product during the first quarter of 2002. Thus, Microtune
conditioned analysts to expect that the Transilica acquisition would boost its critical revenue number because of the availability of its Bluetooth and 802.11 products.

93. On December 14, 2001, Microtune announced a public offering of 5,000,000 shares of common stock at $23.00 per share. Hicks Muse Tate & Furst, a private investment firm, was also offering 2,000,000 shares, yielding over $113 million for the Company. The shares were offered pursuant to Microtune’s shelf registration statement (“Shelf Registration Statement”), which was filed with the SEC on August 17, 2001, and effective as of December 7, 2001.

94. The Shelf Registration Statement was materially false and misleading at the time it was filed as the defendants knew or recklessly disregarded the fact that the Company’s financial statements for the second and third quarters of 2001, contained therein overstated revenues for the second and third quarters of 2001 by purposefully engaging in the following fraudulent schemes, in violation of GAAP:

A. Shipments of product to customers at the end of quarters in excess of orders received at the time of shipment, including the shipment of unfinished product. The revenue was recognized even though there was no purchase order for the product shipped.

B. Extended payment terms, including “flexible payment terms,” granted to customers, including customers who were delinquent in their obligations to Microtune. The revenue was recognized despite the accounts receivable being questionable, and reserves were not established.

C. “Price protection” arrangements granted to distributors whereby (a) profits were guaranteed and (b) credits were promised if the product was resold for less than what
Microtune was to be paid. While "price protection" arrangements are not improper, the revenue was recognized when it should not have been under GAAP.

D. Rights of return, or extraordinary stock rotation privileges, granted to distributors. These included the right to return any product not sold. Despite those rights of return, the revenue was recognized at the time of shipment.

As a result of the foregoing, the Company's financial statements issued during the Class Period were materially false and misleading.

95. In addition, the registration statement was false and misleading at the time it was filed as the defendants knew or recklessly disregarded the following, as detailed in the Fedders' Investigation, (a) Microtune had insufficient internal control policies, insufficient procedures for the supervision of any controls, and insufficient means to detect violations of its controls or generally accounted accounting principles; (b) Microtune's system of controls and procedures for the timely and accurate issuance of periodic press releases is deficient; and (c) Microtune has no means to monitor prior public statements to detect whether an update or correction is required as new material events occur. As a result of the foregoing, the Company's financial statements issued during the Class Period were materially false and misleading.

96. Also in December, 2001, Microtune issued 7,206,125 shares of common stock in connection with the acquisition of Transilica, as well as options for 831,967 shares of common stock. The shares issued in the acquisition were registered with the SEC on a Registration Statement on Form S-3 ("Form S-3" and together with the Shelf Registration Statement, "Registration Statements"), which became effective on December 28, 2001. The shares issuable upon exercise of the options issued in connection with the Transilica acquisition were registered
with the SEC on a Registration Statement on Form S-8, which became effective on December 7, 2001.

97. The Form S-3 was materially false and misleading at the time it was filed as the defendants knew or recklessly disregarded the fact that the Company’s revenues for the second and third quarters of 200, included therein, had been overstated by purposefully engaging in the following fraudulent schemes, in violation of GAAP:

A. Shipments of product to customers at the end of quarters in excess of orders received at the time of shipment, including the shipment of unfinished product. The revenue was recognized even though there was no purchase order for the product shipped.

B. Extended payment terms, including “flexible payment terms,” granted to customers, including customers who were delinquent in their obligations to Microtune. The revenue was recognized despite the accounts receivable being questionable, and reserves were not established.

C. “Price protection” arrangements granted to distributors whereby (a) profits were guaranteed and (b) credits were promised if the product was resold for less than what Microtune was to be paid. While “price protection” arrangements are not improper, the revenue was recognized when it should not have been under GAAP.

D. Rights of return, or extraordinary stock rotation privileges, granted to distributors. These included the right to return any product not sold. Despite those rights of return, the revenue was recognized at the time of shipment.

As a result of the foregoing, the Company’s financial statements issued during the Class Period were materially false and misleading.
98. In addition, the Registration Statements were false and misleading as defendants knew or recklessly disregarded the following, as detailed in the Fedders’ Investigation, (a) Microtune had insufficient internal control policies, insufficient procedures for the supervision of any controls, and insufficient means to detect violations of its controls or generally accounted accounting principles; (b) Microtune’s system of controls and procedures for the timely and accurate issuance of periodic press releases was deficient; and (c) Microtune had no means to monitor prior public statements to detect whether an update or correction is required as new material events occur. As a result of the foregoing, the Company’s financial statements issued during the Class Period were materially false and misleading.

99. In a January, 2002 interview with The Wall Street Transcript, Needham analyst Brandeis called Microtune his “favorite name in our universe of coverage.” Among his reasons for touting Microtune was the Company’s diversification into new, high growth markets, including Bluetooth and 802.11 acquired in the Transilica acquisition.

100. Sometime in January, 2002, a “consulting firm,” Of Wall Street (“OWS”), which provides its clients with contrarian research, issued a report placing Microtune on its “short sell list.” While the research of OWS was non-public and proprietary, according to JP Morgan H&Q analysts, it raised the possibility that revenue recognition timing issues, Microtune’s concentration of its revenues in its older cable modem and automotive technology, inability to grow gross margins and suspicious insider trading activity. According to the JP Morgan H&Q analysts, the issues in the OWS report were public and addressed. In that January 22, report, the JP Morgan analysts also conveyed to investors that Microtune’s yield on Bluetooth chips was higher than expected and that other customers had taken shipment of the chips.
101. On February 4, 2002, Microtune issued a press release announcing its financial results for the fourth quarter 2001. For the quarter, the Company reported revenues of $16.0 million, more than a 6% increase from third quarter 2001 revenues of $15.0 million. Fourth quarter revenues exceeded the Company’s guidance, announced during the third quarter 2001 earnings call and reiterated on a fourth quarter 2001 update call. The Company also announced two significant, non-recurring events affecting results: the Transilica acquisition, which was the primary factor for an increase in research and development expenses; and a $3.0 million restructuring charge relating to the consolidation of manufacturing facilities in the Philippines. The Company stated that “[c]onsolidation of these factories is expected to increase gross margins and lead to better economies of scale in the future.” The common stock offering resulted in net proceeds of $109.3 million, significantly strengthening the Company’s cash and cash equivalents for the quarter to $173.1 million. Defendant Bartek, commenting on the Company’s performance, announced his pleasure with the Microtune’s solid quarter and the Company’s ability to “report sequential increases in revenues and gross margins, while improving results over guidance expectations. . . .” In addition, Mr. Bartek assured investors that the Company would continue to manage its assets and operations “conservatively.”

102. On February 4, 2002, Microtune hosted a conference call to discuss its results for the fourth quarter of 2001. Bartek noted that Microtune had beat its guidance of a 5% revenue increase, recording close to a 7% increase. According to Rogers, defendants “correctly predicted the second quarter 2001 as the low point in revenues for us.” He continued that “third quarter we guided to an increase in revenues and made it. And then again in the fourth quarter, we guided to a 5 percent increase in revenues, but we have now beaten that guidance as well.”
103. Also in the February 4, 2002 conference call, Bartek touted the Transilica acquisition, stating that Microtune had “made a dramatic entry into the wireless connectivity market” and that Microtune was working hard “over the past two months in and effort to seamlessly integrate Transilica . . . into the Microtune family.” Bartek exclaimed that Microtune had “picked up not only a current and future product line, but also an outstanding product engineering team.” According to Bartek, because of the Transilica acquisition, Microtune increased its 2002 revenue projection by 40% over prior analysts estimates while preserving its ability to break even by the end of 2002. Bartek predicted Bluetooth revenue by the second quarter of 2002 and the introduction of Microtune’s first 802.11 based product during 2002. Bartek further touted Microtune’s exceeding analysts’ revenue expectations, stating that “[t]he strength was actually across the board in terms of increased revenue by market. . . .” With regard to revenue guidance, defendants continued to raise the bar, reaffirming their prediction of $17.6 million in revenue for the first quarter of 2002.

104. The financial results for the fourth quarter and year ending December 31, 2001, were reiterated in the Company’s Form 10-K, which was filed with the SEC on or about March 13, 2002 and was signed by defendant Bartek.

105. The statements set forth in paragraphs 101 through 104 were materially false and misleading at the time they were made as the defendants knew or recklessly disregarded the fact that the Company’s revenues for the fourth quarter of 2001 had been overstated by $4,710,000.00, and that revenues for the fiscal year ended December 31, 2001 had been overstated by at least $7,622,000.00 or at least 13%, by purposefully engaging in the following fraudulent schemes, in violation of GAAP:

-40-
A. Shipments of product to customers at the end of quarters in excess of orders received at the time of shipment, including the shipment of unfinished product. The revenue was recognized even though there was no purchase order for the product shipped.

B. Extended payment terms, including “flexible payment terms,” granted to customers, including customers who were delinquent in their obligations to Microtune. The revenue was recognized despite the accounts receivable being questionable, and reserves were not established.

C. “Price protection” arrangements granted to distributors whereby (a) profits were guaranteed and (b) credits were promised if the product was resold for less than what Microtune was to be paid. While “price protection” arrangements are not improper, the revenue was recognized when it should not have been under GAAP.

D. Rights of return, or extraordinary stock rotation privileges, granted to distributors. These included the right to return any product not sold. Despite those rights of return, the revenue was recognized at the time of shipment.

E. Even before the completion of the Transilica acquisition the 802.11 program had been gutted to focus on the more readily commercially viable Bluetooth technology. Thus, by the time Microtune assumed control over Transilica, defendants knew or were reckless in not knowing that Microtune was not producing an 802.11 product.

As a result of the foregoing, the Company’s financial statements issued during the Class Period were materially false and misleading.

106. In addition, the 2001 10-K was false and misleading at the time it was filed as the defendants knew or recklessly disregarded the following, as detailed in the Fedders’ Investigation, that (a) Microtune had insufficient internal control policies, insufficient
procedures for the supervision of any controls, and insufficient means to detect violations of its controls or generally accounted accounting principles; (b) Microtune’s system of controls and procedures for the timely and accurate issuance of periodic press releases was deficient; and (c) Microtune had no means to monitor prior public statements to detect whether an update or correction is required as new material events occur. As a result of the foregoing, the Company’s financial statements issued during the Class Period were materially false and misleading.

107. Further, the 2001 10-K stated “We will apply the new rules on accounting for goodwill and other intangible assets recorded as a result of the Temic, Transilica, and SpaSe acquisitions beginning in the first quarter of 2002. During 2002, we will perform the first of the required impairment tests of goodwill and indefinite lived intangible assets as of January 1, 2002.” Defendants also stated:

We evaluate the carrying value of our intangible assets for impairment whenever indicators of impairment exist. If we determine that such indicators are present, we prepare an undiscounted future cash flow analysis for the asset. In preparing the analysis, we must make a number of assumptions regarding the expected cash flows to be generated from these assets. If our projection of future net cash flows is equal to or in excess of the carrying value of the recorded asset, no impairment is recorded. If the carrying value of the asset exceeds the projected undiscounted net cash flows, an impairment is recorded. To date, we have not recorded an impairment of our goodwill and other intangible assets. However, if future actual results do not meet our expectations, we may be required to record an impairment charge, the amount of which could be [sic] have a material and adverse effect on our financial statements.

108. In direct contradiction to these statements in paragraph 107, and in violation of both GAAP and Microtune’s own policies, defendants knew or recklessly disregarded the following information:
(a) that the technology the Company had acquired in the Transilica acquisition was essentially worthless and that, rather than being accretive, the Company would have to take a material charge for the write down of the goodwill in connection with the acquisition, as well as a write down of the intellectual property and other intangibles acquired in the acquisition.

(b) In the 2002 10-K, defendants described an impairment of both the goodwill related to the Transilica acquisition, among others, pursuant to SFAS No. 142, and an impairment of long lived assets pursuant to SFAS No. 144. The financial statements in the 2001 10-K failed to disclose that circumstances existed at the time of the filing of the 2001 10-K which should have prompted defendants to record a $46.9 million impairment charge at that time. Similarly, the same factors which should have caused defendants to record an impairment for long lived assets should have prompted defendants to write down the goodwill related to the Transilica acquisition.

(c) Pursuant to SFAS No. 142, ¶28, defendants were required to test for impairment of goodwill “between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying amount.” Such an event occurs if the “testing for recoverability under [SFAS] 121 of a significant asset group within a reporting unit.” Among the circumstances under SFAS No. 121 which implicate a goodwill impairment under SFAS 142 are those “that indicate that the recoverability of the carrying amount of an asset” is impaired. Included in the factors that indicate impairment are: (I) a significant decrease in the market value of an asset; (ii) a significant change in the extent or manner in which an asset is used or a significant physical change in an asset; and (iii) a current period operating or cash flow loss combined with a history of operating or cash flow losses or a
projection or forecast that demonstrates continuing losses associated with an asset used for the purpose of producing revenue.

(d) Defendants knew or were reckless in not knowing by the date of the filing of the 2001 10-K that Microtune had abandoned the 802.11 technology and that the Bluetooth technology was commercially unviable and would not provide any legitimate revenue or cash flow to Microtune. As such, the circumstances which caused Microtune, in the fourth quarter 2002, to impair both the goodwill and the intangible assets associated with the Transilica acquisition existed in their entirety as of the filing date of the 2001 10-K. Defendants' knowingly or recklessly violated GAAP by failing to record impairments for goodwill and intangible assets in the 2001 10-K.

109. On February 5, 2002, Salomon Smith Barney analyst Westmont reported that Microtune reported fourth quarter sales of $16.0 million (up 6% sequentially) and pro forma EPS of ($0.12) were slightly better than Salomon Smith Barney’s estimates of $15.8 million and ($0.14), respectively. Westmont noted that bookings continued to gain momentum, and that Microtune expected sales to rise another 10% sequentially in March. Because the outlook was in line with Westmont’s prior positive expectations, Salomon Smith Barney reiterated its Buy (1S) rating.

110. Reporting on Microtune’s 4Q01 conference call in a February 5, 2002 report, Frost Securities analysts Acree and Galligan noted that defendants had touted Microtune’s strongest backlog level since the fourth quarter 2000. The analysts stated: “Driving this backlog are solid orders for wireless solutions, set-top boxes and cable modems, which should return to growth in March after bottoming in the December period. . . . We are encouraged by Microtune’s strong wireless backlog position and the company’s expectation to recognize
wireless revenues beginning 2Q02, a full quarter ahead of schedule. . . .” In addition, Frost Securities stated that Microtune was “seeing substantial bookings across all of its segments and is increasingly comfortable with its guidance for 2002 revenue growth of more than 80%.” Accordingly, Frost maintained its BUY rating.

111. Similarly, in their February 5, 2002 report, Needham analysts Brandeis and Scotto wrote that defendants had “stated that [Microtune’s] backlog and order activity going into the first quarter is stronger than all of 2001. Management expects revenues to be up 10% sequentially (which is significantly above that of its closest competitors) to approximately $17.6 million in the first quarter. . . .” Accordingly, Needham reiterated its STRONG BUY rating.

112. In their February 25, 2002 report, Bear Stearns analysts Boucher, Wu and Motazedian stated: “We are seeing evidence of stronger than expected demand for cable modem products and believe that Microtune’s March quarter is comfortably tracking expectations. . . .” Accordingly, Bear Stearns left estimates unchanged at this time, even though they believed “there is potential for modest upside to our estimates for the company’s June Q and 2H02.” The analysts reiterated Buy rating and concluded that they “would be aggressive buyers of the stock.”

113. Finally, on March 11, 2002, JP Morgan H&Q analysts Chen, McNamara and Lu reported on Microtune’s annual analyst day at company headquarters in Plano, TX. According to JP Morgan H&Q, defendants had confirmed prior Q1 and FY revenue guidance of $17.6M and $120M respectively. The analysts further noted that “Wireless is 100% booked for Q1C02 and the company expects to be profitable Q4C02” and recommended that investors accumulate shares.

114. In an April 15, 2002 interview with The Wall Street Transcript, Defendant Rogers stated that during the third quarter of 2001, Microtune “started seeing a comeback” and that
Microtune was then forecasting year-over-year top line growth of 90%, making it “one of the fastest growing semi-conductor companies in the world for 2002.” According to Rogers, defendants had “guided up 10% for 1Q02 and we’ve guided up 27% for the 2Q02. And we’ve guided up 90% year over year. . . . We’re really pleased with the investor base that we have and want to continue to improve it, but we do have very large investors.” In response to a question asking “What would be the three or four key points you would present to convince an investor to buy in,” Rogers responded:

First of all, we expect that our revenues are going to grow to $120 million from $63 million the prior year, Growth will come from not only our current projects, but also several new areas that I mentioned such as set top box, cable telephony, and the wireless connectivity products such as Bluetooth and 802.11. And on top of that, we expect to be profitable in the 4Q and we’ll strive to continue to be so throughout 2003. So it is a story that has really grown and continues to gain traction, even in this weak stock market environment. In 2000 we went public. Then, we struggled through a very difficult year in 2001 and invested heavily in our research and development and now we believe that we are positioned for significant growth in 2002 and beyond.

Thus, defendants continued to condition analysts to expect significant revenue growth to which the technology acquired in the Transilica acquisition would be a healthy contributor.

115. On April 22, 2002, Microtune issued a press release announcing its financial results for the first quarter ended March 31, 2002. For the quarter, the Company reported revenues of $18.2 million, which exceed the Company’s guidance of $17.6 million. In addition, the Company announced that the cash balance on March 31, 2002 was $164 million, that days sales outstanding (DSO) improved to 68 days from 84 days and that accounts receivables were down. The Company stated that it experienced growth in the Broadband Communications sector, and had begun ramping the Bluetooth(TM) wireless connectivity products. The
Company also announced that consolidation of its manufacturing facilities in Manila was complete, that “[c]apacity in the new facility grew faster than anticipated due to strong customer demand, and the Company expects factory efficiency to improve as a result of the transition to a single manufacturing plant.” Defendant Bartek commented on the Company’s performance, stating in pertinent part:

Q1 was a solid quarter for Microtune, and it is an indication that our business is strengthening. I am especially pleased to report in increase in top-line revenue, not only quarter-to-quarter, but year-to-year, as well as increased gross margins. These results reflect our ability to meet our customers’ business requirements with an expanding range of high-performance, cost-optimized and manufacturable RF products.

* * *

During the recent turbulent economy, we learned to manage our growth and risk. We met these challenges by executing to expectations and by strategically diversifying our business, laying the foundation for the future. Armed with new products and advanced technologies, in combination with strong bookings and healthy design-win activity, we are not positioned for growth and expansion as our business strengthens.

116. Microtune’s financial results for the first quarter 2002, the period ended March 31, 2002, were repeated in the Company’s Report on Form 10-Q, filed with the SEC on or about May 15, 2002, which was signed by defendant Rogers. In its 10-Q, the Company stated that the financial statements were prepared “pursuant to the rules and regulations of the Securities and Exchange Commission.” In addition, the Company stated that “[i]n the opinion of management, all adjustments which are of a normal and recurring nature and are necessary for a fair presentation of the financial position, results of operations, and cash flows” for the first quarter 2002 were made.
117. The statements set forth in paragraphs 1155 and 116 were materially false and misleading at the time they were made as the defendants knew or recklessly disregarded the fact that the Company had purposefully engaging in the following fraudulent schemes, in violation of GAAP:

A. Shipments of product to customers at the end of quarters in excess of orders received at the time of shipment, including the shipment of unfinished product. The revenue was recognized even though there was no purchase order for the product shipped.

B. Extended payment terms, including “flexible payment terms,” granted to customers, including customers who were delinquent in their obligations to Microtune. The revenue was recognized despite the accounts receivable being questionable, and reserves were not established.

C. “Price protection” arrangements granted to distributors whereby (a) profits were guaranteed and (b) credits were promised if the product was resold for less than what Microtune was to be paid. While “price protection” arrangements are not improper, the revenue was recognized when it should not have been under GAAP.

D. Rights of return, or extraordinary stock rotation privileges, granted to distributors. These included the right to return any product not sold. Despite those rights of return, the revenue was recognized at the time of shipment.

As a result of the foregoing, the Company’s financial statements issued during the Class Period were materially false and misleading.

118. In addition, the Company’s 10-Q for the period ending March 31, 2002 was false and misleading at the time it was filed as the defendants knew or recklessly disregarded the following, as detailed in the Fedders’ Investigation, (a) Microtune had insufficient internal
control policies, insufficient procedures for the supervision of any controls, and insufficient means to detect violations of its controls or generally accounted accounting principles; (b) Microtune’s system of controls and procedures for the timely and accurate issuance of periodic press releases is deficient; and (c) Microtune has no means to monitor prior public statements to detect whether an update or correction is required as new material events occur. As a result of the foregoing, the Company’s financial statements issued during the Class Period were materially false and misleading.

119. Finally, the Company’s 10-Q for the period ending March 31, 2002 was false and misleading at the time it was filed as the defendants knew or recklessly disregarded the following information:

   (a) that the technology the Company had acquired in the Transilica acquisition was essentially worthless and that, rather than being accretive, the Company would have to take a material charge for the write down of the goodwill in connection with the acquisition, as well as a write down of the intellectual property and other intangibles acquired in the acquisition.

   (b) In the 2002 10-K, defendants described an impairment of both the goodwill related to the Transilica acquisition, among others, pursuant to SFAS No. 142, and an impairment of long lived assets pursuant to SFAS No. 144. The financial statements in the March 31, 2001 10-Q failed to disclose that circumstances existed which should have prompted defendants to record a $46.9 million impairment charge at that time. Similarly, the same factors which should have caused defendants to record an impairment for long lived assets should have prompted defendants to write down the goodwill related to the Transilica acquisition.

   (c) Pursuant to SFAS No. 142, ¶28, defendants were required to test for impairment of goodwill “between annual tests if an event occurs or circumstances change that
would more likely than not reduce the fair value of a reporting unit below its carrying amount.” Such an event occurs if the “testing for recoverability under [SFAS] 121 of a significant asset group within a reporting unit.” Among the circumstances under SFAS No. 121 which implicate a goodwill impairment under SFAS 142 are those “that indicate that the recoverability of the carrying amount of an asset” is impaired. Included in the factors that indicate impairment are: (I) a significant decrease in the market value of an asset; (ii) a significant change in the extent or manner in which an asset is used or a significant physical change in an asset; and (iii) a current period operating or cash flow loss combined with a history of operating or cash flow losses or a projection or forecast that demonstrates continuing losses associated with an asset used for the purpose of producing revenue.

(d) Defendants knew or were reckless in not knowing by the date of the filing of the March 31 10-Q that Microtune had abandoned the 802.11 technology and that the Bluetooth technology was commercially unviable and would not provide any legitimate revenue or cash flow to Microtune. As such, the circumstances which caused Microtune, in the fourth quarter 2002, to impair both the goodwill and the intangible assets associated with the Transilica acquisition existed in their entirety as of the filing date of the first quarter 10-Q. Defendants’ knowingly or recklessly violated GAAP by failing to record impairments for goodwill and intangible assets in the first quarter 10-Q.

120. On April 22, 2002, Microtune hosted a conference call to discuss its results for the first quarter of 2002. Bartek stated that he was “extremely pleased to report that, once again, we completed the quarter with sequential increases in revenue and margin,” meeting or exceeding all of defendants’ guidance. With respect to revenue, Bartek exclaimed that Microtune had topped its guidance of 10% sequential revenue increase by increasing revenues 14%. As for
defendant Rogers, he touted a strong cash-heavy balance sheet and a “ramp in a significant number of new products to production including our Bluetooth products.” Aside from repeating that Microtune had exceeded company guidance, Rogers addressed the “rumors” which the JP Morgan analysts had made public in January, 2002, stating:

My last comments revolve around the consistent rumors and unfounded comments that Microtune has had to endure this quarter. . . . [On the advice] of our auditors, Ernst & Young, we expanded the explanation of our revenue recognition policy in our 2001 10K published in March 2002. Even though we explained this change to many investors and analysts, the rumors have continued that Microtune has changed the revenue recognition policy to make the quarter by shipping through the distributors. Let me be perfectly clear on this issue, there has been no change to revenue recognition policy at Microtune. Our policy is simple, conservative and consistent. If a distributor accepts products without return privileges or price protection, then they are treated as any other customer and revenue’s recognized upon shipment of the goods. If a distributor accepts product and has either return privileges or price protection, we then do not recognize the revenue until sellthrough to his customer. I have been with Microtune since prior to the first product shipments in 1999 and there has been no change in policy.

121. Also in the April 22 conference call, Bartek discussed his management team and the success of various Microtune products. Of Housley, Bartek said he was “leading the operational chart for the company and doing a tremendous job.” About Richardson, Bartek stated:

Nancy, in addition to having a law degree and an MBA, is also a CPA, has spent part of her career at Ernst & Young and has been CFO at a private company. She has assumed responsibility for all the internal accounting activities within the company working hand-in-hand with Buddy Rogers to ensure that the entire financing infrastructure’s in place to support the corporate structure and the business units as we grow. She and the team she has in place that [sic] will allow Buddy to respond in [sic] your
calls in a timely basis and I have hear many of you compliment us regarding the quick callback that you receive.4

122. Still further in the April 22 conference call, with regard to products, Bartek addressed “the healthy skepticism surrounding the revenue ramp up of our wireless connectivity division.” He discussed defendants’ confidence in their yearly revenue projections in the context of the market characteristics and leading indicators. He stated that “[t]here continues to be tremendous interest and excitement for our wireless products in the marketplace. It is always gratifying to receive such a high level of interest in a new product. However,” he continued, “a much better indicator of the potential success of our product is to count the number of revenue generating customers.” Bartek touted likely shipments to Memorex and Aptech and to 6-7 customers overall. Seizing on Bartek’s comments, Paul Brandeis, a Needham analyst, asked about yield and margins for Microtune’s Bluetooth products in the long and short terms. Rogers responded:

We have been very fortunate in this yield on our RF products that when they come out in production, then we declare them production-worthy. They are pretty much in line with what we expected if not a little bit better. And again, I think that attests to our teams all over the world. . . . These guys know how to do RF’s and their associated based-band products that surround the RF. So, when they are in production, they yield like they are supposed to.

123. Lastly, in the April 22 conference call, analyst Brandeis asked on the status of Microtune’s 802.11 product offering. Rogers answered, reiterating what he had disclosed the quarter earlier that Microtune’s 802.11 effort was “underway. Some of you,” he continued,

4In Microtunes July 22, 2002 conference call, Bartek reiterated Richardson’s qualifications and that, during the first quarter, she had assumed an additional role of Senior VP of Finance “in which she assumed all internal accounting activities within the Company.” In that conference call, Bartek announced that Richardson had formally assumed the title of CFO and Rogers had become Vice President of Investor Relations.
“have heard in various investor conferences that one of our initial products will be an 802.11a 5 Ghz product. You will hear it [sic] more about that and we hope to see that in production near the end of this year.”

124. Defendants statements in the April 22 conference call were false and misleading because defendants knew or were reckless in not knowing that quarterly results for the third and fourth quarter of 2001 and the first quarter of 2002 and annual results for 2001 were materially false due to, among others, the specific manipulative devices about which Rogers spoke and in which, he directly and unequivocally denied, Microtune had engaged. Further, defendants knew or were reckless in not knowing that Microtune’s Bluetooth chip suffered severe reliability problems, rendering the technology commercially unmarketable and that Microtune had abandoned its 802.11 project. Accordingly, defendants knew or were reckless in not knowing that Microtune was required to take a material charge to impair the goodwill and intangible assets related to the Transilica acquisition.

125. Analysts responded overwhelmingly favorably to the news from Microtune. On April 23, 2002, for example, Frost Securities, Inc. reported that Microtune’s $18.2 million of revenue represented a 14% sequential increase, ahead of Frost Securities’ estimate for $17.5 million. Frost noted that Microtune maintained its full-year revenue guidance of about $120 million, and accordingly revised their 2Q02 revenue estimate from $21.5 million to $23.0 million “based on the company’s improved outlook. . . .” They expressed that they were “most encouraged by the company’s first revenue contribution from its wireless division of about $1.0 million (or 5%), one full quarter ahead of previous expectations.” Noting that Microtune’s projections for revenue from Transilica were sometimes a source of “considerable consternation and often disbelief in the validity of the opportunity,” Frost Securities stated that Microtune’s
early Transilica revenue generation was “the first significant step in proving to the market the true potential of this acquisition,” and reiterated its “Buy” rating.

126. In their June 21, 2002 report, Needham analysts Brandeis and Scotto expressed confidence that Microtune would “achieve its aggressive revenue ramp throughout 2002, breakeven in 3Q02 and profitability in 4Q02.” They continued that Microtune “shares are undervalued, as we believe they currently reflect negligible Bluetooth revenue potential (significantly below our forecast). We believe at current levels TUNE shares offers significant upside potential and we recommend investors take advantage of this buying opportunity.” Accordingly, Needham reiterated its “Strong Buy” rating.

127. On July 22, 2002, the Company issued a press release announcing its financial results for the second quarter ended June 30, 2002. The Company reported record revenues of $23.2 million, an increase of 60% over the second quarter of 2001, and a 27% increase over the first quarter 2002. Research and development expense increased 203% from the second quarter 2001 to $10.9 million for the second quarter 2002. Microtune also reported that DSO improved to 64 days from 68 days, and that DSO had improved 20 days since the beginning of 2002.

Commenting on the Company’s performance, defendant Bartek stated:

Matching our record revenue quarter, the Company achieved equally strong performance across its new product development initiatives, design-win activity and industry-standards leadership, proving a solid foundation for continued future growth.

* * *

Q2 was characterized by record revenue growth that was clearly better than our competitors, reflecting the continuing adoption of our RF technology across markets and multiple design-win successes. We are confident in our RF technology leadership, positive about our customer relationships and the commitment of
our worldwide team, and believe strongly in our long-term growth prospects.

128. Microtune's financial results for the second quarter of 2002, the period ended June 30, 2002, were repeated in the Company's Report on Form 10-Q, filed with the SEC on or about August 14, 2002, and signed by defendant Richardson. In its 10-Q, the Company stated that the financial statements were prepared "pursuant to the rules and regulations of the Securities and Exchange Commission." In addition, the Company stated that "[i]n the opinion of management, all adjustments which are of a normal and recurring nature and are necessary for a fair presentation of the financial position, results of operations, and cash flows" for the second quarter 2002 were made.

129. The statements set forth in paragraphs 127 and 128 were materially false and misleading at the time they were made as the defendants knew or recklessly disregarded the fact that they had overstated by $1,145,000 the Company's revenues for the second quarter 2002 by engaging in the following fraudulent schemes, in violation of GAAP:

A. Shipments of product to customers at the end of quarters in excess of orders received at the time of shipment, including the shipment of unfinished product. The revenue was recognized even though there was no purchase order for the product shipped.

B. Extended payment terms, including "flexible payment terms," granted to customers, including customers who were delinquent in their obligations to Microtune. The revenue was recognized despite the accounts receivable being questionable, and reserves were not established.

C. "Price protection" arrangements granted to distributors whereby (a) profits were guaranteed and (b) credits were promised if the product was resold for less than what
Microtune was to be paid. While "price protection" arrangements are not improper, the revenue was recognized when it should not have been under GAAP.

D. Rights of return, or extraordinary stock rotation privileges, granted to distributors. These included the right to return any product not sold. Despite those rights of return, the revenue was recognized at the time of shipment.

As a result of the foregoing, the Company's financial statements issued during the Class Period were materially false and misleading.

130. In addition, the Company's 10-Q for the period ending June 30, 2002 was false and misleading at the time it was filed as the defendants knew or recklessly disregarded the following, as detailed in the Fedders' Investigation, (a) Microtune had insufficient internal control policies, insufficient procedures for the supervision of any controls, and insufficient means to detect violations of its controls or generally accounted accounting principles; (b) Microtune's system of controls and procedures for the timely and accurate issuance of periodic press releases was deficient; and (c) Microtune had no means to monitor prior public statements to detect whether an update or correction is required as new material events occur. As a result of the foregoing, the Company's financial statements issued during the Class Period were materially false and misleading.

131. Finally, the Company's 10-Q for the period ending June 30, 2002 was false and misleading at the time it was filed as the defendants knew or recklessly disregarded the following information:

(a) that the technology the Company had acquired in the Transilica acquisition was essentially worthless and that, rather than being accretive, the Company would have to take
a material charge for the write down of the goodwill in connection with the acquisition, as well as a write down of the intellectual property and other intangibles acquired in the acquisition.

(b) In the 2002 10-K, defendants described an impairment of both the goodwill related to the Transilica acquisition, among others, pursuant to SFAS No. 142, and an impairment of long lived assets pursuant to SFAS No. 144. The financial statements in the second quarter 10-Q failed to disclose that circumstances existed which should have prompted defendants to record a $46.9 million impairment charge at that time. Similarly, the same factors which should have caused defendants to record an impairment for long lived assets should have prompted defendants to write down the goodwill related to the Transilica acquisition.

(c) Pursuant to SFAS No. 142, ¶28, defendants were required to test for impairment of goodwill "between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying amount.” Such an event occurs if the “testing for recoverability under [SFAS] 121 of a significant asset group within a reporting unit.” Among the circumstances under SFAS No. 121 which implicate a goodwill impairment under SFAS 142 are those “that indicate that the recoverability of the carrying amount of an asset” is impaired. Included in the factors that indicate impairment are: (I) a significant decrease in the market value of an asset; (ii) a significant change in the extent or manner in which an asset is used or a significant physical change in an asset; and (iii) a current period operating or cash flow loss combined with a history of operating or cash flow losses or a projection or forecast that demonstrates continuing losses associated with an asset used for the purpose of producing revenue.

(d) Defendants knew or were reckless in not knowing by the date of the filing of the June 30, 2002, 10-Q that Microtune had abandoned the 802.11 technology and that the
Bluetooth technology was commercially unviable and would not provide any legitimate revenue or cash flow to Microtune. As such, the circumstances which caused Microtune, in the fourth quarter 2002, to impair both the goodwill and the intangible assets associated with the Transilica acquisition existed in their entirety as of the filing date of the second quarter 10-Q. Defendants' knowingly or recklessly violated GAAP by failing to record impairments for goodwill and intangible assets in the second quarter 10-Q.

132. On July 22, 2002, Microtune hosted a conference call to discuss its results for the second quarter of 2002. Bartek commented that he was “pleased to report that we completed the quarter with a very large 27% sequential increase in revenue to $23.2 million. This is higher,” he continued, “than our midpoint of the range guidance by about $500,000. It is higher than the top of the range guidance and higher than the consensus estimates.” Bartek claimed a 60% advance over the same quarter in 2001 and a record revenue quarter in Microtune’s history. With respect to personnel, in addition to announcing that Richardson would become CFO, “formally,” Bartek lauded the work Housley had performed. According to Bartek, “Bill is the operating person living [sic] our fantastic team of employees, and he more than anyone else, is responsible for the unprecedented growth we have achieved in the last several quarters.”

133. Needham analyst Brandeis pushed Bartek about the early July, 2002 departure of Hock Law (“Law”), former head of Transilica who had served as head of Microtune’s wireless connectivity unit. Brandeis asked whether Law’s departure indicated problems within the wireless connectivity unit. Bartek emphatically denied that any problems existed.

134. Further, on the July 22 conference call, Bartek continued to tout the success of Microtune’s wireless connectivity unit. While acknowledging certain “yield issues” and customer delays, Bartek claimed that Microtune derived 10% of its revenue from its wireless
connectivity unit and that the “wireless connectivity business will continue to grow, and will continue to become a larger percentage of the total revenue over the next several quarters.” In response to a question about Microtune’s introducing 802.11 products by year end, Bartek stated, “[t]he 802.11 effort that we have talked about is ongoing. And we hope to make some announcements here before year end, and we will just have to leave it at that. That certainly is a market that we see it as an exciting market in the future.” With respect to overall guidance, Bartek stated that Microtune had a shot at $120 million for fiscal 2002, but that he would issue more conservative guidance, predicting revenue in the high $20 millions for the third quarter and the low $30 millions for the fourth quarter.

135. Thus defendants further projected their false and misleading statements about Microtune’s healthy revenues and the sources thereof to the market. Defendants’ statements on the July 22 conference call were false and misleading because they knew or were reckless in not knowing that revenues were overstated, and that the wireless connectivity unit was in dreadful shape. At the same time they predicted continued growth for Microtune’s wireless connectivity unit, they knew or were reckless in not knowing that Microtune’s Bluetooth chip had serious reliability problems rendering it commercially unmarketable and that Microtune had long ago ceased even attempting to create an viable 802.11 product.

136. On July 23, 2002, Needham analysts Brandeis and Scotto again reported on Microtune, noting that, while second quarter 2002 represented a “strong top-line quarter,” they were lowering their rating to a “Buy” from a “Strong Buy” even though Microtune’s revenues were $23.2 million, 27% higher than the first quarter 2002 and slightly above the Company’s guidance of $22.5-23.0 million. Microtune had missed Needham’s revenue estimate of $23.4 million. Highlighting the importance of Microtune’s Bluetooth product, Brandeis and Scotto
noted that by quarter’s end, Microtune had “6 Bluetooth customers and shipped approximately $2.3 million worth of product.” They continued that defendants “expected to ship additional wireless product, however, yield issues prevented those shipments.” In addition, the analysts noted that Microtune’s “802.11 product development remains on track with product announcements expected by year-end.” Finally, Needham passed on defendants’ third quarter revenue guidance of the high $20 million range, and fourth quarter revenues in the low to mid-$30 million range, which was lower than Microtune’s original revenue guidance of $120 million for the year. The Needham analysts revised their forecasts for the third quarter from $35.6 million to $27.0 million, and fourth quarter estimates from $47.8 million to $33.8 million.

137. In September 2002, defendant Bartek was in Europe to meet with investors. In article dated September 23, 2002, published in the Electronic Engineering Times, Bartek stated that Microtune would have an 802.11 wireless product in 2003. The article stated that, despite growing demand for the 802.11 technology, Microtune concentrated on making Bluetooth products a priority to capitalize on the Transilica acquisition. Bartek stated that Bluetooth products were “opening the door” for Microtune to get into broader consumer and automotive markets. The article stated that Defendant Bartek did not rule out the possibility of an acquisition of a wireless technology company that could satisfy its quality-of-service requirements. Defendant Bartek stated: “Microtune has $148 million in cash on hand and is pondering further acquisitions and partnerships.”

138. The foregoing statement was false and misleading. At the time, Bartek knew that Transilica had abandoned completely its push to develop an 802.11 product and that its Bluetooth chip had severe reliability problems. Indeed, Bartek knew or was reckless in not knowing that as a result of the troubles with the technology Microtune acquired from Transilica
that Microtune had, in violation of GAAP and its own accounting policies, improperly failed to record a charge relating to the impairment of its intangible assets and its goodwill.

139. On October 2, 2002, Microtune issued a press release announcing it would report record revenues for the third quarter ended September 30, 2002, of approximately $24 million, a 4% increase over the second quarter of 2002 and a 60% increase over the third quarter 2001. The Company also announced that it expected DSOs at September 30, 2002, to be up significantly, currently estimated at 90 days. Commenting on the results, defendant Bartek stated:

Despite our disappointment in the failure to reach our revenue goal of 20% growth for this quarter, we are fortunate to announce revenue growth this quarter at a time when the overall economy is continuing to soften, making predictability very difficult. We fully intend to reduce operating costs to align our business model with the current economic conditions. At the same time, we believe company fundamentals are very strong, and along with an increasing number of design wins, position us well for the future when the economy recovers.

140. On this news, Microtune’s share price fell from a close of $2.68 on October 1, 2002, to a close of $1.64 on October 3 on two day volume of over 7.07 million shares – a 38.8% decline.

141. Even in the face of record revenue for the quarter, however, analysts pounced. On October 2, 2002, Salomon Smith Barney analyst Westmont reported that the pre-announced revenues were lower than either Street consensus or Salomon Smith Barney’s estimates. Westmont downgraded Microtune’s stock to a 2S (In-Line, Speculative) from a 1S (Outperform, Speculative) rating.

142. On October 28, 2002, the Company issued a press release announcing its financial results for the third quarter ended September 30, 2002. As expected, Microtune announced
record revenues of $24.0 million and gross margins of 37.1%, an increase of 100 basis points over the second quarter 2002 and an increase of 360 basis points over the third quarter 2001. Commenting on the results, defendant Bartek stated: “Even though we did not meet guidance projections, we reported record revenue in a difficult economic environment.”

143. Microtune’s financial results for the third quarter 2002, the period ending September 30, 2002, were reiterated in the Company’s Report on Form 10-Q, filed with the SEC on or about November 12, 2002, and signed by defendant Richardson. The 10-Q was also certified by defendants Bartek and Richardson in accordance with the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350), which was enacted by Congress in response to the fraud perpetrated on investors by Enron. In its 10-Q, the Company stated that the financial statements were prepared “pursuant to the rules and regulations of the Securities and Exchange Commission.” The Company stated that “[i]n the opinion of management, all adjustments which are of a normal and recurring nature and are necessary for a fair presentation of the financial position, results of operations, and cash flows” for the third quarter 2002 were made. In addition, the Company stated that:

Pursuant to the Sarbanes-Oxley Act of 2002, we performed an evaluation under the supervision and with the participation of our management, including our Chief Executive Officer (CEO) and Chief Financial Officer (CFO), of the effectiveness of the design and operation of our disclosure controls and procedures. Based on that evaluation, our management, including our CEO and CFO, concluded that our disclosure controls and procedures were effective as of September 30, 2002. There have been no significant changes in our internal controls or other factors that could significantly affect internal controls subsequent to September 30, 2002.

144. The statements set forth in paragraphs 139 and 141-142 were materially false and misleading at the time they were made as the defendants knew or recklessly disregarded the fact
that they had overstated Microtune’s revenue for the third quarter 2002 by $10,460,000.00 by engaging in the following fraudulent schemes, in violation of GAAP:

A. Shipments of product to customers at the end of quarters in excess of orders received at the time of shipment, including the shipment of unfinished product. The revenue was recognized even though there was no purchase order for the product shipped.

B. Extended payment terms, including “flexible payment terms,” granted to customers, including customers who were delinquent in their obligations to Microtune. The revenue was recognized despite the accounts receivable being questionable, and reserves were not established.

C. “Price protection” arrangements granted to distributors whereby (a) profits were guaranteed and (b) credits were promised if the product was resold for less than what Microtune was to be paid. While “price protection” arrangements are not improper, the revenue was recognized when it should not have been under GAAP.

D. Rights of return, or extraordinary stock rotation privileges, granted to distributors. These included the right to return any product not sold. Despite those rights of return, the revenue was recognized at the time of shipment.

As a result of the foregoing, the Company’s financial statements issued during the Class Period were materially false and misleading.

145. In addition, the statements in the foregoing paragraphs were false and misleading at the time it was filed as the defendants knew or recklessly disregarded the following, as detailed in the Fedders’ Investigation, (a) Microtune had insufficient internal control policies, insufficient procedures for the supervision of any controls, and insufficient means to detect violations of its controls or generally accounted accounting principles; (b) Microtune’s system of
controls and procedures for the timely and accurate issuance of periodic press releases was
deficient; and (c) Microtune had no means to monitor prior public statements to detect whether
an update or correction is required as new material events occur. As a result of the foregoing,
the Company’s financial statements issued during the Class Period were materially false and
misleading.

146. Finally, the above statements in paragraphs 139 and 141-142 false and misleading
at the time made as the defendants knew or recklessly disregarded the following:

(a) that the technology the Company had acquired in the Transilica acquisition
was essentially worthless and that, rather than being accretive, the Company would have to take
a material charge for the write down of the goodwill in connection with the acquisition, as well
as a write down of the intellectual property and other intangibles acquired in the acquisition.

(b) In the 2002 10-K, defendants described an impairment of both the goodwill
related to the Transilica acquisition, among others, pursuant to SFAS No. 142, and an
impairment of long lived assets pursuant to SFAS No. 144. The financial statements in the third
quarter 10-Q failed to disclose that circumstances existed which should have prompted
defendants to record a $46.9 million impairment charge at that time. Similarly, the same factors
which should have caused defendants to record an impairment for long lived assets should have
prompted defendants to write down the goodwill related to the Transilica acquisition.

(c) Pursuant to SFAS No. 142, ¶28, defendants were required to test for
impairment of goodwill “between annual tests if an event occurs or circumstances change that
would more likely than not reduce the fair value of a reporting unit below its carrying amount.”
Such an event occurs if the “testing for recoverability under [SFAS] 121 of a significant asset
group within a reporting unit.” Among the circumstances under SFAS No. 121 which implicate
a goodwill impairment under SFAS 142 are those "that indicate that the recoverability of the carrying amount of an asset" is impaired. Included in the factors that indicate impairment are: (I) a significant decrease in the market value of an asset; (ii) a significant change in the extent or manner in which an asset is used or a significant physical change in an asset; and (iii) a current period operating or cash flow loss combined with a history of operating or cash flow losses or a projection or forecast that demonstrates continuing losses associated with an asset used for the purpose of producing revenue.

(d) Defendants knew or were reckless in not knowing by the date of the filing of the third quarter 10-Q that Microtune had abandoned the 802.11 technology and that the Bluetooth technology was commercially unviable and would not provide any legitimate revenue or cash flow to Microtune. As such, the circumstances which caused Microtune, in the fourth quarter 2002, to impair both the goodwill and the intangible assets associated with the Transilica acquisition existed in their entirety as of the filing date of the third quarter 10-Q. Defendants' knowingly or recklessly violated GAAP by failing to record impairments for goodwill and intangible assets in the third quarter 10-Q.

147. On October 28, 2002, Microtune hosted a conference call to discuss its results for the third quarter of 2002. Bartek stated that while Microtune had recorded record revenues and sequential and year over year increases, that Microtune had failed to meet its expectations for the quarter. With respect to the Company's balance sheet, Richardson alerted analysts that the Company might need to take a charge for impairment of goodwill unless the value of Microtune's stock improved in the near future because of the book value of the Company had exceeded its market value. Bartek gave a rough forecast of $18 million for the fourth quarter of 2002.
Also in the October 28 conference call, Bartek spoke of Microtune’s wireless connectivity products and product development. Bartek touted Bluetooth products as a “bright spot” for the third quarter as products had reached production and revenue began to pick up. Bartek claimed that Microtune was among the top Bluetooth suppliers in the market. In response to a question of Wachovia Securities analyst Barton, Bartek continued that Microtune the applications for Bluetooth were expanding and the Microtune would be able in the coming quarters to capitalize on those applications. In response to a question about Microtune’s 802.11 program, Bartek stated, “As far as 802.11, it is certainly getting to be a very crowded marketplace. . . . [W]e have development activity ongoing, and should expect to say something about that perhaps in the 2003 time period. So we will just leave it at that for now.”

Defendants statements on the October 28 conference call were false and misleading because they knew or recklessly disregarded that Microtune’s revenues were materially overstated. Further, they knew or recklessly disregarded that the technology Microtune acquired in the Transilica acquisition was impaired, requiring the company to take a material charge to both intangible assets and goodwill, charges it had failed to record.

On January 9, 2003 Microtune issued a press release announcing that the Company would announce financial results for the fourth quarter 2002 on Monday, January 27, 2003, after the close of regular trading.

After the close of the market on January 24, 2003, Microtune issued a press release announcing that it had rescheduled the release of its financial results for the fourth quarter 2002, the period ending December 31, 2002, until February 20, 2003, after the close of regular trading. In response to that announcement, on January 27, 2003, the next regular trading
day, shares of Micrtune fell nearly 20% from a close of $2.61 on January 24, 2003 to a close of $2.09 on January 27, 2003 on relatively huge volume of 4.4 million shares.

152. After the close of the market on February 20, 2003, after the close of regular trading, Micrtune shocked the market by announcing:

- Its loss for the fourth quarter 2002, the period ending December 31, 2002, was $80.2 million, almost double the loss of $47 million it had reported in the same period the prior year.

- Despite having shipped $16.1 million of product during the fourth quarter 2002, the Company announced that it was reporting revenues of $2.2 million “as a result of charges relating to five customers, including (a) credits granted and/or (b) lack of timely payments.”

- The GAAP loss included an impairment for goodwill of $50.7 million.

- The Company increased its bad debt reserve by $2.8 million during the fourth quarter 2002.

- The Company incurred restructuring charges of $8.8 million during the fourth quarter 2002 principally as a result of a reduction in the Company’s workforce and elimination of certain facilities.

153. As a result of these developments, the Company announced that its Board of Directors directed the Audit Committee to conduct an investigation regarding the material charges during the fourth quarter 2002. Commenting on the investigation, defendant Bartek stated: “We are confident that the Audit Committee’s investigation will lead to strengthened internal controls and enhance Micrtune’s opportunities for the future.” On this news, the price
of Microtune fell from a close of $1.87 on February 20 to a close of $1.19 on February 21, 2003, a 36.4% decline on enormous volume of 13,874,581.

154. On February 21, 2003, when the market opened for trading, the price of Microtune shares fell more than 35% on extremely high volume, to approximately $1.20 per share, a far cry from its Class Period high of $13.81 per share.

POST-CLASS PERIOD ANNOUNCEMENTS

155. On April 15, 2003, the Company announced that it was taking a material charge as of December 31, 2002 in the amount of $53 million for the write down of Bluetooth technology and related patents acquired in the Transilica acquisition.

156. In a press release dated April 29, 2003, the Company announced the following:

- that it would be restating its audited financial results for 2001;
- that it would be adjusting its reported results for the third and fourth quarters of 2001;
- that it would be adjusting its reported results for the first three quarters of 2002;
- that approximately $9 million of the $11.6 million deferred revenue for the fourth quarter 2002, which the Company announced in the February 20, 2003 press release, would be uncollectible.

- that the Audit Committee's preliminary findings and conclusions included accounting errors and inaccuracies arising from:
  
  (a) price protection arrangements provided by the Company to its customers,
  
  (b) expanded rights or return granted by the Company to its customers,
  
  (c) extended payments terms granted by the Company to its customers and related lack of payments by such customers, and
(d) shipments of product by the Company to its customers in excess of orders received from such customers at the time of shipment.

157. In the ensuing months, the Company announced that defendant Housley resigned his position as President and Chief Operating Officer of Microtune,\(^5\) and that the Company's stock was delisted from NASDAQ. The Company cut approximately 1,000 manufacturing jobs, mostly from its manufacturing facility in the Philippines, and cut more than 50% of its Bluetooth staff.

158. On June 27, 2003, the Company announced that defendant Bartek resigned as Chairman of the Board and President.\(^6\) According to the 2002 Form 10-K, Mr. Bartek was paid approximately $500,000.00 under his separation agreement. In addition, the Company will incur stock compensation of approximately $900,000.00 in the second quarter 2003 in connection with Mr. Bartek's stock options which vested as of the date of the separation agreement.

159. The market for Microtune's common stock was open, well-developed and efficient at all relevant times. As a result of these materially false and misleading statements and failures to disclose, Microtune's common stock traded at artificially inflated prices during the Class Period. Plaintiffs and other members of the Class purchased or otherwise acquired Microtune common stock relying upon the integrity of the market price of Microtune's common stock and market information relating to Microtune, and have been damaged thereby.

\(^5\) The 2002 Form 10-K stated that, as of May 26, 2003, defendant Housley became delinquent on two promissory notes issued to Microtune totalling approximately $460,000.00.

\(^6\) David Bartek, defendant Bartek's brother, joined Microtune as Chief Strategy Officer in May 2002. David Bartek's employment with Microtune was also terminated in June 2003.
160. During the Class Period, defendants materially misled the investing public, thereby inflating the price of Microtune’s common stock, by publicly issuing false and misleading statements and omitting to disclose material facts necessary to make defendants’ statements, as set forth herein, not false and misleading. Said statements and omissions were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about the Company, its business and operations, as alleged herein.

161. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused or were a substantial contributing cause of the damages sustained by Plaintiffs and other members of the Class. As described herein, during the Class Period, defendants made or caused to be made a series of materially false or misleading statements about Microtune’s business prospects and operations. These material misstatements and omissions had the cause and effect of creating in the market an unrealistically positive assessment of Microtune and its business, prospects and operations, thus causing the Company’s common stock to be overvalued and artificially inflated at all relevant times. Defendants’ materially false and misleading statements during the Class Period resulted in Plaintiffs and other members of the Class purchasing the Company’s common stock at artificially inflated prices, thus causing the damages complained of herein.

ACCOUNTING VIOLATIONS

162. Microtune’s second quarter 2001 through third quarter 2002 financial results were included in Forms 10-Q and 10-K filed with the SEC. The results were also included in press releases.
163. Microtune improperly recognized revenue, such that its second quarter 2001 through third quarter 2002 financial statements were not a fair presentation of Microtune’s results and were presented in violation of GAAP and SEC rules.

164. GAAP are those principles recognized by the accounting profession as the conventions, rules and procedures necessary to define accepted accounting practice at a particular time. SEC Regulation S-X (17 C.F.R. Section 210.4-01(a)(1)) required that financial statements filed with the SEC be prepared in compliance with GAAP. Those that are not in conformity with GAAP are presumed to be misleading and inaccurate, despite footnotes or other disclosure. Microtune’s overstated revenue and resultant earnings were achieved through repeated violations of GAAP throughout the Class Period.

**What a Restatement Means**

165. Microtune’s restatements of its 2001 annual financial statements and its quarterly financial statements for the quarters ended March 31, 2002, June 30, 2002, September 30, 2002, September 30, 2001 and December 30, 2001, are an admission that the originally reported figures were materially incorrect and in violation of GAAP. Accounting Principles Board Opinion (“APB”) No. 20: *Accounting Changes*, provides guidance for when a Company is required to restate its previously issued financial statements. APB No. 20 states, in relevant part, as follows:

> Restating financial statements of prior periods may dilute public confidence in financial statements and may confuse those who use them. Financial statements previously prepared on the basis of accounting principles generally accepted at the time the statements were issued should therefore be considered final except for changes in the reporting entity or corrections of errors. (¶14, emphasis added)

166. Further, APB No. 20 defines an error in financial statements as follows:
Errors in financial statements result from mathematical mistakes, mistakes in the application of accounting principles, or oversight or misuse of facts that existed at the time the financial statements were prepared.

167. Still further, APB No. 20 specifically states that it applies to material corrections of errors as follows:

If a change or correction has a material effect on income before extraordinary items or on net income of the current period before the effect of the change, the treatments and disclosures described in this Opinion should be followed. Furthermore, if a change or correction has a material effect on the trend of earnings, the same treatments and disclosures are required. (¶38, emphasis added)

168. As alleged above, in each year and/or quarter of the Class Period, Microtune overstated its revenue in violation of GAAP. Microtune’s financial statements were materially false and misleading due to the premature/improper reporting of revenue from (a) shipments of product in excess of orders, (2) “sales” with extended payment terms when collectibility was not probable, (3) transactions with price protection arrangements and (4) transactions with unlimited rights of return. Therefore, the reported revenue from these transactions was not yet earned, when recognized.

169. GAAP, in the form of Statement of Financial Accounting Concepts (“FASCON”) 5: Recognition and Measurement in Financial Statements of Business Enterprises, states that revenue “... recognition involves consideration of two factors (a) being realized or realizable and (b) being earned...” (¶83). The FASCON describes the concept of “earned” in relevant part as follows:

Revenues are not recognized until earned. An entity’s revenue-earning activities involve delivering or producing goods, rendering services, or other activities that constitute its ongoing major or central operations, and revenues are considered to have been
earned when the entity has substantially accomplished what it must do to be entitled to the benefits represented by the revenues....
(CON5, Par. 84)

170. Further, the FASCON states:

The two conditions (being realized or realizable and being earned) are usually met by the time product or merchandise is delivered or services are rendered to customers, and revenues from manufacturing and selling activities and gains and losses from sales of other assets are commonly recognized at time of sale (usually meaning delivery).

171. Additionally, the SEC provided its views in applying GAAP to selected revenue recognition issues through the issuance of Staff Accounting Bulletin ("SAB") No. 101 Revenue Recognition in Financial Statements in December 1999. SAB 101 states, in relevant part, as follows:

The staff believes that revenue generally is realized or realizable and earned when all of the following criteria are met:

Persuasive evidence of an arrangement exists,
Delivery has occurred or services have been rendered,
The seller's price to the buyer is fixed or determinable, and
Collectibility is reasonable assured

For example, as alleged above, Microtune improperly recorded revenue from large shipments of unordered product at the end of a quarter. The revenue on these unordered sales were prematurely recorded because there was no persuasive evidence of an arrangement existing between Microtune and the customer to purchase the goods.

172. Another example of Microtune's improper recording of sales relates to the "sales" made with the right of return. Statement of Financial Accounting Standards Board ("FAS") No. 48: Revenue Recognition When Right of Return Exists, provides the guidance for how and when
it is appropriate to record revenue when the product can be returned. FAS No. 48 states, in relevant part, as follows:

If an enterprise sells its product but gives the buyer the right to return the product, revenue from the sales transaction shall be recognized at time of sale only if all of the following conditions are met:

a. The seller's price to the buyer is substantially fixed or determinable at the date of sale.

b. The buyer has paid the seller, or the buyer is obligated to pay the seller and the obligation is not contingent on resale of the product.

c. The buyer's obligation to the seller would not be changed in the event of theft or physical destruction or damage of the product.

d. The buyer acquiring the product for resale has economic substance apart from that provided by the seller.

e. The seller does not have significant obligations for future performance to directly bring about resale of the product by the buyer.

f. The amount of future returns can be reasonably estimated. (¶6)

173. Further, FAS No. 48, requires that if a Company is able to record revenue when the right of return exists, such Company also is to record an estimate of the returns, as follows:

If sales revenue is recognized because the conditions of paragraph 6 are met, any costs or losses that may be expected in connection with any returns shall be accrued in accordance with FASB Statement No. 5, Accounting for Contingencies. Sales revenue and cost of sales reported in the income statement shall be reduced to reflect estimated returns. (¶7)

174. Microtune violated GAAP and overstated its reported revenue by failing to accrue a proper estimate of returns at the time it recorded the revenue from the sales.
175. Still further, Microtune inflated its revenue by recording sales from product deeply discounted, with rights of return and extended payment terms. Such transactions may not qualify for revenue recognition since they were in substance consignments. SAB 101 prohibits the recognition of revenue until an actual sale has occurred. SAB 101 states, in relevant part, as follows:

...situations may exist where title to delivered products passes to a buyer, but the substance of the transaction is that of a consignment or a financing... The staff believes that the presence of one or more of the following characteristics in a transaction precludes revenue recognition even if title to the product has passed to the buyer:

1. The buyer has the right to return the product and:

a) the buyer does not pay the seller at the time of sale, and the buyer is not obligated to pay the seller at a specified date or dates

b) the buyer does not pay the seller at the time of sale but rather is obligated to pay at a specified date or dates, and the buyer’s obligation to pay is contractually or implicitly excused until the buyer resells the product or subsequently consumes or uses the product,

c) the buyer’s obligation to the seller would be changed (e.g., the seller would forgive the obligation or grant a refund) in the event of the theft or physical destruction or damage of the product,

d) the buyer acquiring the product for resale does not have economic substance apart from that provided by the seller, or

e) the seller has significant obligations for future performance to directly bring about resale of the product by the buyer.

(Emphasis added)

Therefore, Microtune repeatedly violated GAAP by recording revenue for products and services before the earnings process was complete and collectibility was probable.

Lack of Controls at Microtune

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176. By its own admission, Microtune had no system of internal controls as required by the Foreign Corrupt Practices Act Amendment (FCP”), §13(b)(2) of the Exchange Act of 1934, which required Microtune to:

(a) make and keep books, records, and accounts, which in reasonable detail, accurately and fairly reflect the transactions and dispositions of the issuer; and

(b) devise and maintain a system of internal accounting controls sufficient to provide assurances that:

I. Transactions are executed with management’s general or specific authorization;

ii. Transactions are recorded as necessary to (I) permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statement, and (ii) to maintain accountability for assets;

iii. Access to assets is permitted only in accordance with management’s general or specific authorization; and

iv. The recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any difference.

ADDITIONAL SCIENTER ALLEGATIONS

177. As alleged herein, defendants acted with scienter in that defendants knew that the public documents and statements issued or disseminated in the name of the Company were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statement or documents as primary violators of the federal securities laws. As set forth herein in detail, defendants, by virtue of their receipt of information reflecting the true facts regarding Microtune, their control over, and/or receipt and/or modification of Microtune’s allegedly materially misleading misstatements and/or their
associations with the Company which made them privy to confidential proprietary information concerning Microtune, participated in the fraudulent scheme alleged herein.

178. Defendants acted with scienter in that defendants knew that, by artificially inflating the stock price through dissemination of false and misleading financial statements, they would be successful in attracting and retaining key personnel and executive management. As stated in the Company’s 2002 10-K, “the market price of, or other price attainable for, our common stock directly affects the attractiveness and effectiveness of our stock options as a recruiting and retention tool. . . . The competition for attracting qualified candidates is intense.”

**INSIDER TRADING**


180. Throughout the Class Period, the Individual Defendants continuously and systematically sold their shares of stock, at artificially inflated prices, to the unsuspecting public, reaping individual fortunes along the way, as follows:

<table>
<thead>
<tr>
<th>Individual</th>
<th>Shares Sold</th>
<th>Proceeds Realized</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bartek</td>
<td>645,977</td>
<td>$9,540,499</td>
</tr>
<tr>
<td>Housley</td>
<td>47,608</td>
<td>666,001</td>
</tr>
<tr>
<td>Rogers</td>
<td>57,125</td>
<td>1,029,613</td>
</tr>
</tbody>
</table>
181. At all relevant times, the market for Microtune’s common stock was an efficient market for the following reasons, among others:

   (a) Microtune’s stock met the requirements for listing, and was listed and actively traded on the NASDAQ, a highly efficient and automated market.

   (b) As a regulated issuer, Microtune filed periodic public reports with the SEC and the NASDAQ;

   (c) Microtune regularly communicated with public investors via established market communication mechanisms, including through regular disseminations of press releases on the national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and

   (d) Microtune was followed by several securities analysts employed by major brokerage firms who wrote reports which were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

182. As a result of the foregoing, the market for Microtune’s common stock promptly digested current information regarding Microtune from all publicly available sources and reflected such information in Microtune’s stock price. Under these circumstances, all purchasers of Microtune’s common stock during the Class Period suffered similar injury through their
The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this complaint. Many of the specific statements pleaded herein were not identified as "forward-looking statements" when made. To the extent there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor does apply to any forward-looking statements pleaded herein, defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the particular speaker knew that the particular forward-looking statement was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of Microtune who knew that those statements were false when made.

**FIRST CLAIM**

Violation Of Section 10(b) Of
The Exchange Act Against And Rule 10b-5
Promulgated Thereunder Against All Defendants

184. Plaintiffs repeat and reallege each and every allegation contained above, as if fully set forth herein.

185. During the Class Period, defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (I) deceive the investing public, including Plaintiffs and other Class members, as alleged herein; and (ii) cause Plaintiffs
and other members of the Class to purchase Microtune's common stock at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, defendants, and each of them, took the actions set forth herein.

186. Defendants (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (c) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's common stock in an effort to maintain artificially high market prices for Microtune’s common stock in violation of Section 10(b) of the Exchange Act and Rule 10b-5. All defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

187. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the business, operations and future prospects of Microtune as specified herein.

188. These defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of Microtune’s value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and omitting to state material facts necessary in order to make the statements made about Microtune and its business operations and future prospects in the light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a
course of business which operated as a fraud and deceit upon the purchasers of Microtune common stock during the Class Period.

189. Each of the Individual Defendants' primary liability, and controlling person liability, arises from the following facts: (I) the Individual Defendants were high-level executives and/or directors at the Company during the Class Period and members of the Company's management team or had control thereof; (ii) each of these defendants, by virtue of his or her responsibilities and activities as a senior officer and/or director of the Company was privy to and participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; (iii) each of these defendants enjoyed significant personal contact and familiarity with the other defendants and was advised of and had access to other members of the Company's management team, internal reports and other data and information about the Company's finances, operations, and sales at all relevant times; and (iv) each of these defendants was aware of the Company's dissemination of information to the investing public which they knew or recklessly disregarded was materially false and misleading.

190. The defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Such defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing Microtune's operating condition and future business prospects from the investing public and supporting the artificially inflated price of its common stock. As demonstrated by defendants' overstatements and misstatements of the Company's business, operations and earnings throughout the Class Period, defendants, if they did not have actual knowledge of the misrepresentations and omissions alleged, were reckless in failing to
obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

191. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of Microtune’s common stock was artificially inflated during the Class Period. In ignorance of the fact that market prices of Microtune’s publicly-traded common stock were artificially inflated, and relying directly or indirectly on the false and misleading statements made by defendants, or upon the integrity of the market in which the common stock trades, and/or on the absence of material adverse information that was known to or recklessly disregarded by defendants but not disclosed in public statements by defendants during the Class Period, Plaintiffs and the other members of the Class acquired Microtune common stock during the Class Period at artificially high prices and were damaged thereby.

192. At the time of said misrepresentations and omissions, Plaintiffs and other members of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiffs and the other members of the Class and the marketplace known the truth regarding Microtune’s financial results, which were not disclosed by defendants, Plaintiffs and other members of the Class would not have purchased or otherwise acquired their Microtune common stock, or, if they had acquired such common stock during the Class Period, they would not have done so at the artificially inflated prices which they paid.

193. By virtue of the foregoing, defendants have violated Section 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder.
194. As a direct and proximate result of defendants' wrongful conduct, Plaintiffs and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's common stock during the Class Period.

SECOND CLAIM
Violation Of Section 20(a) Of
The Exchange Act Against Individual Defendants

195. Plaintiffs repeat and reallege each and every allegation contained above, as if fully set forth herein.

196. The Individual Defendants acted as controlling persons of Microtune within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions, and their ownership and contractual rights, participation in and/or awareness of the Company's operations and/or intimate knowledge of the false financial statements filed by the Company with the SEC and disseminated to the investing public, the Individual Defendants had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiffs contends are false and misleading. The Individual Defendants were provided with or had unlimited access to copies of the Company's reports, press releases, public filings and other statements alleged by Plaintiffs to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

197. In particular, each of these defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.
198. As set forth above, Microtune and the Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of defendants' wrongful conduct, Plaintiffs and other members of the Class suffered damages in connection with their purchases of the Company's common stock during the Class Period.

WHEREFORE, Plaintiffs pray for relief and judgment, as follows:

(A) Determining that this action is a proper class action and certifying Plaintiffs as class representatives under Rule 23 of the Federal Rules of Civil Procedure;

(B) Awarding compensatory damages in favor of Plaintiffs and the other Class members against all defendants, jointly and severally, for all damages sustained as a result of defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

(C) Awarding Plaintiffs and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

(D) Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiffs hereby demand a trial by jury.

Dated: August 20, 2003

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This is to certify that a true and correct copy of the foregoing instrument has been served on the following counsel of record, this 20th day of August, 2003, as indicated below via first class mail:

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