

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
	:	10-cv-09239 (JSR)
Plaintiff,	:	
	:	ECF Case
v.	:	
	:	
VITESSE SEMICONDUCTOR CORPORATION,	:	MOTION TO ESTABLISH A
<i>et al.</i> ,	:	FAIR FUND FOR FUNDS
	:	PREVIOUSLY PAID BY
	:	INDIVIDUAL
	:	DEFENDANTS, COMBINE
	:	FUNDS PREVIOUSLY
	:	PAID BY INDIVIDUAL
	:	DEFENDANTS WITH
	:	FUNDS PREVIOUSLY
	:	PAID BY VITESSE,
	:	APPROVE DISTRIBUTION
	:	PLAN, AND AUTHORIZE
	:	PAYMENT OF CURRENT
	:	AND FUTURE
	:	INCIDENTAL EXPENSES
	:	OF DISTRIBUTION AGENT
	:	
Defendants.	:	
	:	

PLAINTIFF SECURITIES AND EXCHANGE COMMISSION’S MOTION TO ESTABLISH
A FAIR FUND FOR FUNDS PREVIOUSLY PAID BY INDIVIDUAL DEFENDANTS,
COMBINE FUNDS PREVIOUSLY PAID BY INDIVIDUAL DEFENDANTS WITH FUNDS
PREVIOUSLY PAID BY VITESSE, APPROVE DISTRIBUTION PLAN, AND AUTHORIZE
PAYMENT OF CURRENT AND FUTURE INCIDENTAL EXPENSES OF DISTRIBUTION
AGENT

Plaintiff Securities and Exchange Commission (the “Commission” or “SEC”) moves the Court to approve the following:

1. Establish a fair fund for the \$359,815 in funds¹ previously paid to the Commission by individual defendants Louis R. Tomasetta, Eugene F. Hovanec, Yatin D. Mody, and Nicole R. Kaplan (collectively, “Individual Defendants”).
2. Combine the \$359,815 in funds previously paid by Individual Defendants with the \$3,000,000 in funds previously paid by Vitesse Semiconductor Corporation to the Commission and established as a Fair Fund, plus any interest earned on those funds².
3. Approve the Commission’s proposed plan to distribute, prior to deducting any fees and expenses of the tax administrator and incidental mailing expenses of the distribution agent, approximately \$3,363,815³ in funds, and any accrued interest, paid by defendants Vitesse Semiconductor Corporation (“Vitesse”) and individual defendants Louis R. Tomasetta (“Tomasetta”), Eugene F. Hovanec (“Hovanec”), Yatin D. Mody (“Mody”), and Nicole R. Kaplan (“Kaplan”) (collectively, “Defendants”) to harmed investors. Under the proposed distribution plan (“Plan”), the Commission would transfer approximately \$3,363,815⁴ and any accrued interest, less any estimated taxes, fees, and

¹ The SEC previously received funds from the Individual Defendants amounting to \$359,815 in disgorgement, prejudgment interest, and penalties, as follows:

- \$100,000 in penalties paid by Tomasetta
- \$50,000 in penalties paid by Hovanec
- \$31,050 in disgorgement and \$16,445 in prejudgment interest paid by Kaplan
- \$105,604 in disgorgement and \$56,716 in prejudgment interest paid by Mody

² In March 2011, Vitesse paid \$3,000,000 to the Commission to the Court Registry Investment System (“CRIS”). The CRIS is an interest bearing account.

³ As of February 29, 2016, the \$3,363,815 Fair Fund is composed of the following:

- Held in the Court’s interest bearing CRIS account:
 - \$3,000,000 in penalties paid by Vitesse
 - \$3,226 in interest earned on the \$3,000,000 held in the CRIS account
- Held by the SEC (all funds have been sent to Treasury to earn interest):
 - \$100,000 in penalties paid by Tomasetta
 - \$50,000 in penalties paid by Hovanec
 - \$31,050 in disgorgement and \$16,445 in prejudgment interest paid by Kaplan
 - \$105,604 in disgorgement and \$56,716 in prejudgment interest paid by Mody

⁴ As of February 29, 2016, the \$3,363,815 Fair Fund is composed of the following:

expenses of the tax administrator and any Commission approved expenses of the distribution agent, to Berdon Claims Administration LLC (“Berdon”), the appointed distribution agent in this matter, so that Berdon can distribute those funds to harmed investors. The proposed distribution plan adopts the same distribution plan as approved by the United States District Court for the Central District of California in the class action lawsuit entitled *Grasso v. Vitesse Semiconductor Corporation, et al.*, Case No. 06-2639-R (CTx) (C.D. Cal.) Dkt. #158 (also attached as an Exhibits A and B). The harmed investors to be compensated are those same investors which have already been identified in the class action, in which Berdon also serves as the distribution agent in that matter.

4. Authorize payment of current and future incidental expenses of Distribution Agent.

Berdon has agreed not to accept compensation for its services in distributing the Fair Funds in this matter, thereby maximizing the amount of money returned to harmed investors and maximizing efficiency in distributing money to those same harmed investors as in the Class Action. Berdon will be paid for minor expenses incurred in mailing the checks to harmed investors.

PROCEDURAL BACKGROUND

On December 10, 2010, the Commission filed a Complaint, alleging, inter alia, that Defendants, from 1995 through April 2006, engaged in fraudulent revenue recognition practices

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- Held in the Court’s interest bearing CRIS account:
 - \$3,000,000 in penalties paid by Vitesse
 - \$3,226 in interest earned on the \$3,000,000 held in the CRIS account

 - Held by the SEC (all funds have been sent to Treasury to earn interest):
 - \$100,000 in penalties paid by Tomasetta
 - \$50,000 in penalties paid by Hovanec
 - \$31,050 in disgorgement and \$16,445 in prejudgment interest paid by Kaplan
 - \$105,604 in disgorgement and \$56,716 in prejudgment interest paid by Mody

and stock options backdating misconduct. This fraud was orchestrated by certain of Vitesse's most senior former executives.

Starting around September 2001 and not ending until April 2006, Vitesse engaged in an elaborate channel stuffing scheme in order to improperly record revenue on product shipments. Tomasetta, Hovanec, Mody and Kaplan caused Vitesse to immediately recognize revenue and record invalid accounts receivable for product shipped at period end to its largest distributor, Nu Horizons Electronics Corporation, even though it had an unconditional right to return all of the product. The right of return was accomplished through undisclosed side letters and oral agreements. The effect of this fraud was to materially inflate the revenue that Vitesse reported in its financial statements in 14 quarters from September 2001 through early 2006. Tomasetta, Hovanec, Mody and Kaplan compounded their fraudulent revenue recognition practices by failing to timely record credits generated by Nu Horizons' return of product tied to the invalid accounts receivable.

Tomasetta and Hovanec backdated or repriced 40 option grants to thousands of employees. Tomasetta and Hovanec collectively reaped millions of dollars in illicit profits from exercising backdated options. As a result of the backdating, Vitesse failed to record approximately \$184 million in compensation expense, overstating pretax income or understating its pretax loss by as much as 45% annually for its fiscal years 1996 through 2005.

On March 22, 2011, the Court entered a Final Judgment against Vitesse (Dkt. #60). Defendant was ordered to pay a civil penalty in the amount of \$3,000,000 pursuant to Securities Act Section 20(d) [15 U.S.C. §77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C.

§78(u)(d)(3)] within 14 days after entry of the Final Judgment. Vitesse paid \$3,000,000 to the Court Registry Investment System (“CRIS”).

On March 22, 2011 the Court entered a Final Judgment against Kaplan (Dkt. #61) and found Kaplan liable for disgorgement of \$31,050 and prejudgment interest thereon in the amount of \$16,445 for a total in the amount of \$47,495. Kaplan was ordered to satisfy the obligation within 14 after entry of the Final Judgment. Kaplan paid \$31,050 in disgorgement and \$16,445 in prejudgment interest to the Commission, which the Commission remitted to the Treasury general fund.

On March 22, 2011 the Court entered a Final Judgment against Mody (Dkt. #62) and found Mody liable for disgorgement of \$105,604 and prejudgment interest thereon in the amount of \$56,716 for a total in the amount of \$162,320. Mody was to pay in four payments according to a payment schedule. Mody paid \$105,604 in disgorgement, \$56,716 in prejudgment interest, and \$902 in post judgment interest to the Commission, which the Commission remitted to the Treasury general fund.

On August 8, 2014 the Court entered a Final Judgment against Tomasetta (Dkt. #105) and found Tomasetta liable for disgorgement of \$2,126,450 and a civil penalty in the amount of \$100,000 pursuant to Securities Act Section 20(d) [15 U.S.C. §77t(d)] and Section 20(d)(3) of the Exchange Act [15 U.S.C. §78(u)(d)(3)]. Tomasetta’s disgorgement obligation was deemed satisfied by his prior payment of \$1,200,000 and transfer of 814,655 shares of Vitesse Semiconductor Corporation stock, to the class action Settlement Fund in *Louis Grasso v. Vitesse Semiconductor et al.*, No. CV 06-02639 R (CTx) (C.D. Cal.). Tomasetta was to satisfy his remaining obligation by paying \$100,000 to the Commission within 30 days after entry of the

Final Judgment. Tomasetta paid \$100,000 to the Commission, which the Commission remitted to the Treasury general fund.

On August 8, 2014 the Court entered a Final Judgment against Hovanec (Dkt. #106) and found Hovanec liable for disgorgement of \$781,280 and a civil penalty in the amount of \$50,000 pursuant to Securities Act Section 20(d) [15 U.S.C. §77t(d)] and Section 20(d)(3) of the Exchange Act [15 U.S.C. §78(u)(d)(3)]. Hovanec's disgorgement obligation was deemed satisfied by his prior payment of \$250,000 and transfer of 458,014 shares of Vitesse Semiconductor Corporation stock, to the class action Settlement Fund in *Louis Grasso v. Vitesse Semiconductor et al.*, No. CV 06-02639 R (CTx) (C.D. Cal.). Hovanec was to satisfy the penalty obligation by paying \$50,000 to the Commission pursuant to a payment schedule. Hovanec paid \$50,000 in penalties, which the Commission invested in Treasury securities. Hovanec also paid \$24 in post judgment interest to the Commission, which the Commission will send to the U.S. Treasury as post judgment interest is not distributed to harmed investors.

In total, Defendants paid a total of \$3,360,742 (\$3,150,000 penalties, \$136,654 disgorgement, \$73,161 prejudgment interest, and \$927 post judgment interest) as a result of the final judgments against Defendants.

On January 11, 2016, the Court ordered that a Fair Fund be established pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, from the funds paid by Defendants in this matter ("Fair Fund"). Berdon was also appointed to serve as the Distribution Agent for the Fair Fund to assist in overseeing the administration and distribution of the Fair Fund in coordination with Commission staff, pursuant to the terms of a distribution plan ("Distribution Plan") to be approved by this court, as described below. Damasco & Associates

LLP (“Damasco”) was appointed as the Tax Administrator to execute all income tax reporting requirements, including the preparation and filing of tax returns, with respect to the Fair Fund.

BRIEF SUMMARY OF THE CONSOLIDATED CLASS ACTION LAWSUIT

On October 4, 2007, lead plaintiff The Rodriguez Group filed a consolidated class action complaint⁵ (“Consolidated Complaint”) in United States District Court for the Central District of California against Vitesse Semiconductor Corporation (“Vitesse”), Louis Tomasetta (“Tomasetta”), Yatin D. Mody (“Mody”), Eugene F. Hovanec (“Hovanec”), Silicon Valley Bank, Nu Horizons Electronics Corp., Titan Supply Chain Services, Corp, and KPMG LLP (collectively, “Defendants”).

The Consolidated Complaint alleged that class members who purchased Vitesse common stock during the period January 27, 2003 to April 27, 2006 (“Class Period”) were damaged by Defendants’ violations of the federal securities laws. Beginning in January 2003, Vitesse and the individual defendants began publicly issuing a series of materially false and misleading statements concerning Vitesse and its financial condition that were intended to, and did, mislead the class members and financial market participants into believing that Vitesse’s restructuring efforts were yielding positive results. In reality, Vitesse’s financial condition had not slowly and steadily improved throughout the Class Period. In particular, throughout the Class Period, Vitesse, the individual defendants, and certain of Vitesse’s customers caused Vitesse’s publicly reported revenue to become materially artificially inflated by improperly recording revenue from “channel stuffing” sales and consignment sales and creating fictitious invoices and improperly recording fictitious revenue.

⁵ Case number: 06-CV-2639 R.

The Consolidated Complaint also alleged that Vitesse, the individual defendants, and Silicon Valley Bank all acted to create the false appearance that the size and age of Vitesse's accounts receivables had been reduced in each fiscal quarter when, in fact, they had not. These defendants did so by: entering into transactions with Silicon Valley Bank that were disguised as "sales" of Vitesse's Accounts Receivables, when in fact these transactions were secured loan transactions; and intentionally not recording credit memos or misapplying and recording credit memos in the wrong financial reporting periods in order to "manage" Vitesse's reported revenue to Wall St. analysts' expectations. Vitesse, the individual defendants, and KPMG LLP all had actual knowledge of the substance of these transactions, and each of these Defendants also knew that these transactions did not satisfy the accounting tests to qualify as "sales" of accounts receivable because the risk of loss had not passed from Vitesse to Silicon Valley Bank. KPMG LLP audited the financial statements prepared by both Vitesse and Silicon Valley Bank. Although KPMG LLP had actual knowledge that the purported accounts receivable sale transactions did not satisfy the requirements to qualify as "sales" under applicable accounting rules, KPMG LLP nonetheless falsely represented that Vitesse's financial statements "present fairly, in all material respects, that financial position of Vitesse Semiconductor Corporation."

On October 5, 2007, Lead Plaintiff, Vitesse and the Individual Defendants entered into an Amended Stipulation of Settlement settling the claims asserted in the action against Vitesse and the Individual Defendants ("Stipulation").

On January 7, 2008, the Court entered an Order (Dkt. #158) preliminarily approving the Vitesse Settlement described in the Stipulation and providing for notice in the consolidated class action. Among other items, the Court certified the class as all persons who purchased Vitesse common stock between January 27, 2003 and April 27, 2006, and appointed Berdon Claims

Administration, LLC (“Berdon”) to supervise and administer the notice procedure as well as the processing of claims.

Pursuant to an Order dated January 28, 2008, the Court dismissed with prejudice the claims asserted in the Complaint against Silicon Valley Bank, Nu Horizons Electronic Corp. and Titan Supply Chain Services Corp.

On April 7, 2008, the Court approved the Vitesse Settlement. The Settlement consists of \$10,200,000 in cash \$8,750,000 from the Defendants' directors' and officers' liability insurers, \$1,200,000 from Louis R. Tomasetta, and \$250,000 from Eugene F. Hovanec. Also part of the settlement is 3,922,669 shares of Vitesse common stock comprised of 2,650,000 shares of Vitesse common stock transferred from Vitesse, 814,655 shares of Vitesse common stock transferred from Louis R. Tomasetta, and 458,014 shares of Vitesse common stock transferred from Eugene F. Hovanec. The 3,922,669 shares were subsequently sold for cash via a tender offer, and the proceeds of the sale are available to distribution to harmed investors as part of the settlement fund

On June 16, 2008, the parties filed a Stipulation of Settlement with defendant KPMG LLP. According to the settlement terms, a settlement fund in the amount of \$7,750,000 in cash had been established.

BERDON IS PREPARED AND READY TO MAKE A DISTRIBUTION

Berdon is prepared and ready to make a distribution to eligible investors. Berdon is currently awaiting the transfer of money from the SEC’s Fair Fund, upon approval of the Court

per this motion, so that one distribution can take place to eligible investors. Because the eligible investors in both the class action settlement and the SEC's settlement are the same, Berdon will make one mailing to the eligible investors of money obtained from both the class action settlement and the SEC's settlement. As of March 2016, Berdon has identified 13,475⁶ properly documented claims in the amount of \$57,221,216 as it relates to the Vitesse and KPMG settlements. The Commission respectfully requests that the Court approve this motion and issue the attached order so that eligible investors can receive their distribution.

**THE DISTRIBUTION PLAN ADOPTED BY THE SEC IS THE SAME AS THE
DISTRIBUTION PLAN IN THE SETTLED CLASS ACTION**

The harmed eligible investors are the same in the SEC settlement and the class action settlement. Also, Berdon is the distribution agent in charge of handling both the SEC settlement and the class action settlement. The Commission seeks to adopt the same distribution plan approved in the settled class, *see Grasso v. Vitesse Semiconductor Corporation, et al.*, Case No. 06-2639-R (CTx) (C.D. Cal.) Dkt. #158, **pages 21-24** (also attached as an Exhibit A) and **Table A** (also attached as Exhibit B). A brief summary of the distribution plan is as follows:

(Step 1) For each share of Vitesse common stock that was purchased on or after January 27, 2003 and that was still held as of the close of trading on April 27, 2006, the Recognized Loss per share is the Alleged Inflation amount on the date of purchase indicated on Table A.

⁶ An eligible investor who originally submitted a claim in the Vitesse class action was also entitled to participate in the subsequent KPMG settlement without having to file another separate claim. An eligible investor who filed a claim as it relates to the KPMG settlement was only entitled to participate in the KPMG settlement. Thus, the 13,475 properly documented claims are made up of 11,100 previously properly documented claims from the Vitesse settlement and 2,375 additional properly documented claims from the KPMG settlement only.

(Step 2) For each share of Vitesse common stock that was purchased on or after January 27, 2003 and sold before April 19, 2006, there is no Recognized Loss. This determination was made because the purchase and the sale occurred before any adverse information was publicly disclosed. Thus, any losses that Eligible Recipients have suffered with respect to shares of Vitesse common stock that were purchased from January 27, 2003 through and including April 18, 2006, that were sold before April 19, 2006, were not related to the alleged misstatements or omissions and are not compensable through an action for violation of the securities laws.

(Step 3) For each share of Vitesse common stock that was purchased on or after January 27, 2003 and before April 19, 2006, and then sold between April 19, 2006 and April 27, 2006 (inclusive), the Recognized Loss per share is the Alleged Inflation amount on the date of purchase minus the Alleged Inflation amount on the date of sale indicated on Table A.

(Step 4) For each share of Vitesse common stock that was purchased from April 19, 2006 through and including April 27, 2006, and subsequently sold on or before April 27, 2006, the Recognized Loss per share is the Alleged Inflation amount on the date of purchase minus the Alleged Inflation amount on the date of sale indicated on Table A.

(Step 5) “Aggregate Recognized Loss” in Vitesse common stock during the Class Period, is the sum total of the Eligible Recipient’s Recognized Losses per share multiplied by the number of shares associated with each transaction described above.

Because the amounts received in the SEC settlement and the class action settlement is not sufficient to permit payment of the total claim of each Eligible Recipient, each Eligible Recipient shall be paid a pro rata percentage of the amounts received in the SEC settlement and the class

action settlement that each Eligible Recipient's claim bears to the total of the claims of all Eligible Recipients.

ARGUMENT

I. THE COMMISSION'S REQUEST TO ESTABLISH A FAIR FUND FOR FUNDS PREVIOUSLY PAID BY INDIVIDUAL DEFENDANTS SHOULD BE GRANTED

The Court previously approved the establishment of the Fair Fund in this matter for money paid by Vitesse to the SEC, *see Dkt. #113*. We now ask that the Court also approve moneys paid by the Individual Defendants in this matter to be also established as a Fair Fund so that those funds can be added to the \$3 million already paid by Vitesse in this matter. Thus, one Fair Fund will include moneys paid by all Defendants in this matter.

The Final Judgment states that the "Commission may by motion propose a plan to distribute the Fund subject to the Court's approval" and that "[s]uch a plan may provide that the Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended by Section 929B of the Dodd-Frank Wall Street Reform and Consumer Protection Act." The Commission now moves the Court to designate the funds paid by the Individual Defendants be established as a Fair Fund pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, which provides in relevant part:

If, in any judicial or administrative action brought by the Commission under the securities laws, the Commission obtains a civil penalty against any person for a violation of such laws, or such person agrees, in settlement of any such action, to such civil penalty shall, on the motion or at the direction of the Commission, be added to and become part of the disgorgement fund or other fund established for the

benefit of the victims of such violation.

See 15 U.S.C. § 7246(a). The Commission brought this action under the securities laws and Individual Defendants paid penalties as part of the settlement. Accordingly, Section 308's requirements, as amended, have been satisfied and the Court should establish a Fair Fund for the investors harmed by Defendants' misconduct. Permitting the civil penalties paid by the Defendants to be added to a Fair Fund will allow the Commission to return money to injured investors, rather than pay such monies directly to the U.S. Department of the Treasury. Returning funds to injured investors is the result that Congress intended when it included the Fair Fund provision in the Sarbanes-Oxley Act and amended the Section in the Dodd-Frank Act to allow for distribution of penalties, even if no disgorgement is ordered.

II. THE COMMISSION'S REQUEST TO COMBINE FUNDS PREVIOUSLY PAID BY INDIVIDUAL DEFENDANTS WITH FUNDS PREVIOUSLY PAID BY VITESSE SHOULD BE GRANTED

The Commission respectfully requests that the \$359,815 paid by the Individual Defendants, plus any interest less any fees, be added to the Fair Fund with the \$3,000,000 already paid by Vitesse so that it can be distributed to injured investors.⁷ Commission staff also requests that the \$3,000,000 paid by Vitesse, which is held in the Court's CRIS account, plus any interest less Court registry fees, and the \$359,815 paid by Individual Defendants, which the Commission had previously sent to the U.S. Treasury, plus any interest less any fees, be

⁷ The \$359,815 was collected from the individual defendants in a number of separate payments over a period of several years, and following collection these payments were transmitted to the United State Treasury. If the Court approves adding those funds to the Fair Fund, the Staff, in consultation with the Office of Financial Management, will provide a copy of the Court's order to Treasury and obtain return of the funds so that they can be transferred to the Court's CRIS account.

transferred to Berdon, the distribution agent, to be distributed in accordance with the distribution plan approved in the class action settlement.

Berdon will then combine the funds from the SEC and the class action to make a single distribution to eligible recipients. The proposed distribution will not result in any “windfall” to injured investors because the amounts available for distribution will fall significantly short of satisfying investors’ claims. There also will be little or no incremental expense associated with adding the individual payments because they will be distributed in the same manner and by the same process as the amounts currently in the Fair Fund.

III. THE COMMISSION’S REQUEST TO APPROVE THE DISTRIBUTION PLAN SHOULD BE GRANTED

Commission staff have reviewed the attached distribution plan approved by the Court in the class action and it appears fair and reasonable. Given that the investors harmed in this matter are the same investors harmed in the class action matter and that the distribution agent is the same in both this matter and the class action matter, Commission staff requests that the distribution plan in the class action matter be adopted for this matter. The funds received from Vitesse and the Individual Defendants in this matter plus the funds received in the class action will be distributed by the distribution agent to eligible recipients in one distribution mailing. As the amount of money lost by Eligible Recipients is significantly more than the amount of funds that were collected for disbursement, the payments to investors will be calculated on a *pro rata* basis as described in the proposed Distribution Plan.

Generally, courts have broad discretion to approve plans to distribute funds collected in SEC enforcement actions. *SEC v. Wang* 944 F.2d 80, 84 (2d Cir. 1991). In evaluating a proposed distribution plan, a court should “decide whether, in the aggregate, the plan is equitable

and reasonable.” *Id.* “Unless the consent decree specifically provides otherwise, once the District Court satisfies itself that the distribution of proceeds in a proposed Securities and Exchange Commission disgorgement plan is fair and reasonable, its review is at an end.” *Id.* at 85.

Accordingly, Commission staff requests that Court approve the distribution plan in the class action matter for this matter. *See attached Exhibits A and B.*

IV. THE COMMISSION’S REQUEST TO AUTHORIZE PAYMENT OF CURRENT AND FUTURE INCIDENTAL EXPENSES OF THE DISTRIBUTION AGENT SHOULD BE GRANTED

The Distribution Agent has agreed not to accept compensation for its services in distributing the Fair Funds in this matter. The Distribution Agent will, however, be paid for incidental expenses incurred in mailing the checks to harmed investors. Given that there will be relatively minimal expenses related to this distribution, Commission staff requests that the Court approve the payment of current and future incidental expenses be paid from the Fair Fund.

CONCLUSION

For the reasons stated above, the Commission hereby moves the Court to

1. Establish a fair fund for the \$359,815 in funds previously paid to the Commission, plus any interest less any fees, by individual defendants Louis R. Tomasetta, Eugene F. Hovanec, Yatin D. Mody, and Nicole R. Kaplan (collectively, “Individual Defendants”).
2. Combine the \$359,815 in funds previously paid by Individual Defendants, plus any interest less any fees, with the \$3,000,000 in funds previously paid by Vitesse Semiconductor Corporation, plus any interest less registry fees, to the Commission and established as a Fair Fund, plus any interest earned on those funds.

3. Approve the Commission's proposed plan to distribute, prior to deducting any fees and expenses of the tax administrator and incidental mailing expenses of the distribution agent, approximately \$3,363,815⁸ in funds, and any accrued interest, paid by defendants Vitesse Semiconductor Corporation ("Vitesse") and individual defendants Louis R. Tomasetta ("Tomasetta"), Eugene F. Hovanec ("Hovanec"), Yatin D. Mody ("Mody"), and Nicole R. Kaplan ("Kaplan") (collectively, "Defendants") to harmed investors.
4. Authorize payment of current and future incidental expenses of Distribution Agent. Berdon has agreed not to accept compensation for its services in distributing the Fair Funds in this matter, thereby maximizing the amount of money returned to harmed investors and maximizing efficiency in distributing money to those same harmed investors as in the Class Action. Berdon will be paid for minor expenses incurred in mailing the checks to harmed investors.

Attachments:

Exhibits A and B

Respectfully Submitted,

/s/ Michael S. Lim

Michael S. Lim

Securities and Exchange Commission
100 F St, N.E.

⁸ As of February 29, 2016, the \$3,363,815 Fair Fund is composed of the following:

- Held in the Court's interest bearing CRIS account:
 - \$3,000,000 in penalties paid by Vitesse
 - \$3,226 in interest earned on the \$3,000,000 held in the CRIS account
- Held by the SEC (all funds have been sent to Treasury to earn interest):
 - \$100,000 in penalties paid by Tomasetta
 - \$50,000 in penalties paid by Hovanec
 - \$31,050 in disgorgement and \$16,445 in prejudgment interest paid by Kaplan
 - \$105,604 in disgorgement and \$56,716 in prejudgment interest paid by Mody

Washington, D.C. 20549
Phone: (202) 551-4659
Fax: (202) 572-1372
Attorney for Plaintiff

Virginia State Bar License #: 76385

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
	:	10-cv-09239 (JSR)
Plaintiff,	:	
	:	ECF Case
v.	:	
	:	
VITESSE SEMICONDUCTOR CORPORATION,	:	
<i>et al.</i> ,	:	
	:	
	:	
Defendants.	:	
	:	

[PROPOSED] ORDER ESTABLISHING A FAIR FUND FOR FUNDS PREVIOUSLY PAID BY INDIVIDUAL DEFENDANTS, COMBINING FUNDS PREVIOUSLY PAID BY INDIVIDUAL DEFENDANTS WITH FUNDS PREVIOUSLY PAID BY VITESSE, APPROVING DISTRIBUTION PLAN, AND AUTHORIZING PAYMENT OF CURRENT AND FUTURE INCIDENTAL EXPENSES OF DISTRIBUTION AGENT

Plaintiff, Securities and Exchange Commission (“SEC” or the “Commission”), having moved (the “Motion”) for an Order to Establish a Fair Fund for Funds Previously Paid By Individual Defendants, Combine Funds Previously Paid by Individual Defendants with Funds Previously Paid by Vitesse, Approve Distribution Plan, and Authorize Payment of Current and Future Incidental Expenses of Distribution Agent; and the Court having considered the Motion, and for good cause shown,

IT IS HEREBY ORDERED, that the Motion is **GRANTED**; and

It is **FURTHER ORDERED** that

1. A Fair Fund is established for the \$359,815 in funds previously paid to the Commission, plus any interest less any fees, by individual defendants Louis R. Tomasetta, Eugene F. Hovanec, Yatin D. Mody, and Nicole R. Kaplan (collectively, "Individual Defendants").
2. The \$359,815 in funds previously paid by Individual Defendants, plus any interest less any fees, shall be combined with the \$3,000,000 in funds previously paid by Vitesse Semiconductor Corporation, plus any interest less registry fees, to the Commission and established as a Fair Fund, plus any interest earned on those funds.
3. The Commission's proposed plan to distribute to harmed investors approximately \$3,363,815 in funds, and any accrued interest, prior to deducting any fees and expenses of the tax administrator and incidental mailing expenses of the distribution agent, paid by defendants Vitesse Semiconductor Corporation ("Vitesse") and individual defendants Louis R. Tomasetta ("Tomasetta"), Eugene F. Hovanec ("Hovanec"), Yatin D. Mody ("Mody"), and Nicole R. Kaplan ("Kaplan") (collectively, "Defendants"), is approved.
4. The payment of current and future incidental expenses of Distribution Agent is authorized. Berdon shall not accept compensation for its services in distributing the Fair Funds in this matter, thereby maximizing the amount of money returned to harmed investors and maximizing efficiency in distributing money to those same harmed investors as in the Class Action. Berdon shall be paid for minor expenses incurred in mailing the checks to harmed investors.

Dated:

UNITED STATES DISTRICT JUDGE

ORIGINAL

SCAN

1 PAUL R. KIESEL (SBN 119854)
KIESEL BOUCHER LARSON LLP
2 8648 Wilshire Boulevard
Beverly Hills, California 90211-2910
3 Telephone: 310/854.4444
310/854.0812 (fax)

4 HORWITZ, HORWITZ & PARADIS
5 Attorneys at Law
PAUL O. PARADIS
6 28 West 44th Street, 16th Floor
New York, NY 10036
7 Telephone: 212/404-2200
212/404-2226 (fax)

LODGED
CLERK, U.S. DISTRICT COURT
DEC 26 2007
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY BY

FILED
CLERK, U.S. DISTRICT COURT
JAN - 7 2008
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY BY

8 Lead Counsel for Lead Plaintiff The Rodriguez Group

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION

13 LOUIS GRASSO, individually and on
14 behalf of all others similarly situated,
15 Plaintiff,

16 vs.

17 VITESSE SEMICONDUCTOR
CORPORATION, DR. VINCENT
18 CHAN, PH.D., JAMES A. COLE, ALEX
DALY, MOSHE GAVRIELOV, JOHN C.
19 LEWIS, DR. LOUIS TOMASETTA,
PH.D., YATIN MODY, EUGENE F.
20 HOVANEK and EDWARD ROGAS, JR.,
21 Defendants.

No. CV 06-02639 - R

CLASS ACTION

~~PROPOSED~~ ORDER APPROVING
SETTLEMENT AND PROVIDING
FOR NOTICE

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1 WHEREAS, this consolidated class action entitled *Grasso v. Vitesse*
2 *Semiconductor*, Case No. 06-2639R(CTx) (the "Litigation"), is pending before the
3 Court;

4 WHEREAS, the Court has received the Amended Stipulation of Settlement
5 dated as of October 5, 2007 (the "Stipulation"), that has been entered into by the Lead
6 Plaintiff and Defendants, and the Court has reviewed the Stipulation and its attached
7 Exhibits; and

8 WHEREAS, the parties having made application, pursuant to Federal Rule of
9 Civil Procedure 23(e), for an order preliminarily approving the settlement of this
10 Litigation, in accordance with the Stipulation which, together with the Exhibits
11 annexed thereto sets forth the terms and conditions for a proposed settlement of the
12 Litigation, a bar order as required under 15 U.S.C. §78u-4(f)(7) and dismissal of the
13 Litigation with prejudice as to the settling defendants upon the terms and conditions
14 set forth therein; and the Court having read and considered the Stipulation and the
15 Exhibits annexed thereto; and

16 WHEREAS, all defined terms contained herein shall have the same meanings as
17 set forth in the Stipulation;

18 NOW, THEREFORE, IT IS HEREBY ORDERED:

19 1. The Court certifies, for settlement purposes only, a Class defined as all
20 Persons who purchased Vitesse Semiconductor Corporation common stock between
21 January 27, 2003 and April 27, 2006. Excluded from the Class are the Company, the
22 officers and directors, employees, affiliates, legal representatives, heirs, predecessors,
23 successors and assigns, and any entity in which the Company has a controlling interest
24 or of which the Company is a parent or subsidiary.

25 2. With respect to the Class, this Court finds that: (a) the Members of the
26 Class are so numerous that joinder of all Class Members in the class action is
27 impracticable; (b) there are questions of law and fact common to the Class which
28 predominate over any individual question; (c) the claims of the Lead Plaintiff are

1 typical of the claims of the Class; (d) the Lead Plaintiff and Lead Counsel have fairly
2 and adequately represented and protected the interests of the Class Members; and (e) a
3 class action is superior to other available methods for the fair and efficient
4 adjudication of the controversy, considering: (i) the interests of the Members of the
5 Class in individually controlling the prosecution of the separate actions, (ii) the extent
6 and nature of any litigation concerning the controversy already commenced by
7 Members of the Class, (iii) the desirability or undesirability of concentrating the
8 litigation of these claims in this particular forum, and (iv) the difficulties likely to be
9 encountered in the management of the class action.

10 3. The Court does hereby preliminarily approve the Stipulation and the
11 settlement, bar order and terms for dismissal set forth therein, subject to further
12 consideration at the Settlement Hearing described below.

13 4. A hearing (the "Settlement Hearing") shall be held before this Court on
14 March 17, 2008, at 10:00 a.m., at the United States Courthouse, 312 North Spring
15 Street, Los Angeles, California, to determine whether the proposed settlement of the
16 Litigation on the terms and conditions provided for in the Stipulation is fair, just,
17 reasonable and adequate to the Members of the Class and should be approved by the
18 Court; whether a Judgment, including bar order, as provided in ¶1.13 of the
19 Stipulation should be entered herein; whether the proposed Plan of Allocation should
20 be approved; and, if an application is made by Lead Counsel for such an award, to
21 determine the amount of fees and expenses that should be awarded to Lead Counsel.
22 The Court may adjourn the Settlement Hearing without further notice to Members of
23 the Class.

24 5. The Court approves, as to form and content, the Notice of Pendency and
25 Proposed Settlement of Class Action (the "Notice"), the Proof of Claim and Release
26 form (the "Proof of Claim and Release"), and Summary Notice for publication
27 annexed as Exhibits A-1, A-2 and A-3 hereto and finds that the mailing and
28 distribution of the Notice and publishing of the Summary Notice substantially in the

1 manner and form set forth in ¶¶6-7 of this Order meet the requirements of Federal
2 Rule of Civil Procedure 23 and due process, and is the best notice practicable under
3 the circumstances and shall constitute due and sufficient notice to all Persons entitled
4 thereto.

5 6. The firm of Berdon Claims Administration, LLC (“Claims
6 Administrator”) is hereby appointed to supervise and administer the notice procedure
7 as well as the processing of claims as more fully set forth below:

8 (a) Lead Counsel shall make reasonable efforts to identify all Persons
9 who are Members of the Class, and not later than January 21, 2008 (the “Notice
10 Date”), Lead Counsel shall cause a copy of the Notice and the Proof of Claim and
11 Release, substantially in the forms annexed as Exhibits A-1 and A-2 hereto, to be
12 mailed by first class mail to all Class Members who can be identified with reasonable
13 effort;

14 (b) Not later than January 30, 2008, Lead Counsel shall cause the
15 Summary Notice to be published once in *Investor’s Business Daily*; and

16 (c) At least seven (7) calendar days prior to the Settlement Hearing,
17 Lead Counsel shall cause to be served on Defendants’ counsel and filed with the Court
18 proof, by affidavit or declaration, of such mailing and publishing.

19 7. Nominees who purchased the common stock of Vitesse for the beneficial
20 ownership of Class Members during the Class Period shall send the Notice and the
21 Proof of Claim and Release to all beneficial owners of such Vitesse common stock
22 within ten (10) days after receipt thereof, or send a list of the names and addresses of
23 such beneficial owners to the Claims Administrator within ten (10) days of receipt
24 thereof, in which event the Claims Administrator shall promptly mail the Notice and
25 Proof of Claim and Release to such beneficial owners. Lead Counsel shall, if
26 requested, reimburse banks, brokerage houses or other nominees solely for their
27 reasonable out-of-pocket expenses incurred in providing notice to beneficial owners
28 who are Class Members out of the Settlement Fund, which expenses would not have

1 been incurred except for the sending of such Notice, subject to further order of this
2 Court with respect to any dispute concerning such compensation.

3 8. All Members of the Class shall be bound by all determinations and
4 judgments in the Litigation concerning the settlement, whether favorable or
5 unfavorable to the Class.

6 9. Class Members who wish to participate in the settlement shall complete
7 and submit Proof of Claim and Release forms in accordance with the instructions
8 contained therein. Unless the Court orders otherwise, all Proof of Claim and Release
9 forms must be submitted no later than ninety (90) days from the Notice Date. Any
10 Class Member who does not timely submit a Proof of Claim and Release within the
11 time provided for, shall be barred from sharing in the distribution of the proceeds of
12 the Settlement Fund, unless otherwise ordered by the Court.

13 10. Any Member of the Class may enter an appearance in the Litigation, at
14 their own expense, individually or through counsel of their own choice. If they do not
15 enter an appearance, they will be represented by Lead Counsel.

16 11. Any Person falling within the definition of the Class may, upon request,
17 be excluded from the Class. Any such Person must submit to the Claims
18 Administrator a request for exclusion ("Request for Exclusion"), postmarked no later
19 than February 25, 2008. A Request for Exclusion must state: (a) the name, address,
20 and telephone number of the Person requesting exclusion; (b) each of the Person's
21 purchases and sales of Vitesse common stock made during the Class Period, including
22 the dates of purchase or sale, the number of shares purchased and/or sold, and the
23 price paid or received per share for each such purchase or sale; and (c) that the Person
24 wishes to be excluded from the Class. All Persons who submit valid and timely
25 Requests for Exclusion in the manner set forth in this paragraph shall have no rights
26 under the Stipulation, shall not share in the distribution of the Net Settlement Fund,
27 and shall not be bound by the Stipulation or the Judgment entered in the Litigation.

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1 12. Any Member of the Class may appear and show cause, if he, she or it has
2 any, why the proposed settlement of the Litigation should or should not be approved
3 as fair, reasonable and adequate, why a judgment and bar order should or should not
4 be entered thereon, why the Plan of Allocation should or should not be approved or
5 why attorneys' fees and expenses should or should not be awarded to counsel for the
6 plaintiffs; provided, however, that no Class Member or any other Person shall be
7 heard or entitled to contest such matters, unless that Person has delivered by hand or
8 sent by first class mail written objections and copies of any papers and briefs such that
9 they are received on or before February 25, 2008, by:

10 HORWITZ, HORWITZ & PARADIS
11 ATTORNEYS AT LAW
12 PAUL O. PARADIS
13 28 West 44th Street, 16th Floor
14 New York, NY 10036

15 Lead Counsel for Lead Plaintiff The Rodriguez
16 Group

17 KATTEN MUCHIN ROSENMAN LLP
18 BRUCE G. VANYO
19 ANNISA D. SEYMOUR
20 MARISA WESTERVELT
21 209 Century Park East, Suite 2600
22 Los Angeles, CA 90067-6042

23 Attorneys for Defendants Vincent Chan, James A.
24 Cole, Alex Daly and John C. Lewis

25 O'MELVENY & MYERS LLP
26 SETH ARONSON
27 DAVID I. HURWITZ
28 MARC S. WILLIAMS
29 TRISTAN SORAH-REYES
30 400 South Hope Street
31 Suite 1060
32 Los Angeles, CA 90071-2899

33 Attorneys for Defendants Moshe Gavrielov,
34 Edward Rogas, Jr. and Vitesse Semiconductor
35 Corporation

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MICHAEL GREEN
VICE PRESIDENT, GENERAL COUNSEL
AND SECRETARY
VITESSE SEMICONDUCTOR CORPORATION
741 Calle Plano
Camarillo, CA 93012

Attorneys for Defendant Vitesse Semiconductor Corporation

HELLER EHRMAN LLP
SARA B. BRODY
HOWARD CARO
MADELEINE LOH
333 Bush Street, Suite 3100
San Francisco, CA 94104-2878

Attorney for Defendant Eugene F. Hovanec

MORRISON & FOERSTER, LLP
DAN MARMALEFSKY
JAMES P. MANISCALCO
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

Attorney for Defendant Louis R. Tomasetta

IRELL & MANELLA LLP
DAVID SIEGEL
DANIEL LEFLER
GLENN VANZURA
1800 Avenue of the Stars
Suite 900
Los Angeles, CA 90067-4276

Attorney for Defendant Yatin Mody

and filed said objections, papers and briefs with the Clerk of the United States District Court for the Central District of California, Western Division, on or before February 25, 2008. Any Member of the Class who does not make his, her or its objection in the manner provided shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed settlement as set forth in the Stipulation, to the Judgment and bar order, to the Plan of Allocation, or to the award of attorneys' fees and expenses to counsel for the plaintiffs, unless otherwise ordered by the Court.

1 13. All funds held by the Escrow Agents shall be deemed and considered to
2 be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the
3 Court, until such time as such funds shall be distributed pursuant to the Stipulation
4 and/or further order(s) of the Court.

5 14. All papers in support of the settlement, the Judgment and bar order, the
6 Plan of Allocation, and any application (if such application is currently made) by Lead
7 Counsel for the plaintiffs for attorneys' fees or reimbursement of expenses or by Lead
8 Plaintiff for reimbursement of its expenses shall be filed and served on or before
9 March 5, 2008.

10 15. Neither the Released Persons nor their counsel shall have any
11 responsibility for or liability with respect to the Plan of Allocation or any application
12 for attorneys' fees or reimbursement of expenses submitted by Lead Counsel or the
13 Lead Plaintiff, and such matters will be considered separately from the fairness,
14 reasonableness and adequacy of the settlement, including the Judgment and bar order.

15 16. At or after the Settlement Hearing, the Court shall determine whether the
16 Plan of Allocation proposed by Lead Counsel, and any application for attorneys' fees
17 or reimbursement of expenses shall be approved.

18 17. All reasonable expenses incurred in identifying and notifying Class
19 Members and current Vitesse Shareholders, as well as administering the Settlement
20 Fund, shall be paid as set forth in the Stipulation. In the event the settlement is not
21 approved by the Court, or otherwise fails to become effective, neither the Lead
22 Plaintiff nor any of their counsel shall have any obligation to repay any amounts
23 incurred or properly disbursed pursuant to ¶¶2.8 or 2.10 of the Stipulation.

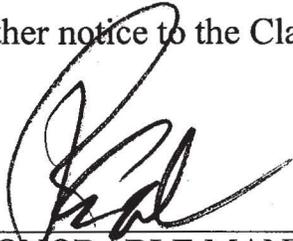
24 18. Neither the Stipulation, nor any of its terms or provisions or Exhibits, nor
25 any of the negotiations or proceedings connected with it, shall be deemed used or
26 construed as an admission or concession by Defendants or their Related Parties (other
27 than the Non-Settling Defendants), or as evidence against Defendants or their Related
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1 Parties (other than the Non-Settling Defendants), of the truth or validity of any of the
2 allegations in the Litigation, or of any liability, fault, or wrongdoing of any kind.

3 19. The Court reserves the right to adjourn the date of the Settlement Hearing
4 without further notice to the Members of the Class, and retains jurisdiction to consider
5 all further applications arising out of or connected with the proposed settlement. The
6 Court may approve the settlement, with such modifications as may be agreed to by the
7 Settling Parties, if appropriate, without further notice to the Class.

8 IT IS SO ORDERED.

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10 DATED: Jan. 7, 2008



11 THE HONORABLE MANUEL L. REAL
12 UNITED STATES DISTRICT JUDGE

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1 PAUL R. KIESEL (SBN 119854)
KIESEL BOUCHER LARSON LLP
2 8648 Wilshire Boulevard
Beverly Hills, California 90211-2910
3 Telephone: 310/854.4444
310/854.0812 (fax)

4 HORWITZ, HORWITZ & PARADIS
5 Attorneys at Law
PAUL O. PARADIS
6 28 West 44th Street, 16th Floor
New York, NY 10036
7 Telephone: 212/404-2200
212/404-2226 (fax)

8 Lead Counsel for Lead Plaintiff The Rodriguez Group
9

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION

13 LOUIS GRASSO, individually and on
14 behalf of all others similarly situated,

15 Plaintiff,

16 vs.

17 VITESSE SEMICONDUCTOR
CORPORATION, DR. VINCENT
18 CHAN, PH.D., JAMES A. COLE, ALEX
DALY, MOSHE GAVRIELOV, JOHN C.
19 LEWIS, DR. LOUIS TOMASETTA,
PH.D., YATIN MODY, EUGENE F.
20 HOVANEC and EDWARD ROGAS, JR.,

21 Defendants.
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) No. CV 06-02639

) CLASS ACTION

) NOTICE OF PENDENCY AND
PROPOSED SETTLEMENT OF
CLASS ACTION

) EXHIBIT A-1

1 TO: ALL PERSONS WHO PURCHASED THE COMMON STOCK OF
2 VITESSE SEMICONDUCTOR CORPORATION ("VITESSE")
3 BETWEEN JANUARY 27, 2003 AND APRIL 27, 2006

4 PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.
5 YOUR RIGHTS MAY BE AFFECTED BY PROCEEDINGS IN THIS
6 LITIGATION. PLEASE NOTE THAT IF YOU ARE A CLASS MEMBER, YOU
7 MAY BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT
8 DESCRIBED IN THIS NOTICE. TO CLAIM YOUR SHARE OF THIS FUND,
9 YOU MUST SUBMIT A VALID PROOF OF CLAIM AND RELEASE
10 POSTMARKED ON OR BEFORE APRIL 21, 2008.

11 This Notice has been sent to you pursuant to Rule 23 of the Federal Rules of
12 Civil Procedure and an Order of the United States District Court for the Central
13 District of California, Western Division (the "Court"). The purpose of this Notice is
14 to inform you of the pendency and proposed settlement of this class action litigation
15 and of the hearing to be held by the Court to consider the fairness, reasonableness, and
16 adequacy of the settlement. This Notice is not intended to be, and should not be
17 construed as, an expression of any opinion by the Court with respect to the truth of the
18 allegations in the Litigation or the merits of the claims or defenses asserted. This
19 Notice describes the rights you may have in connection with the settlement and what
20 steps you may take in relation to the settlement and this class action litigation.

21 The proposed settlement creates a fund in the amount of \$10,200,000 in cash
22 and 3,922,669 shares of Vitesse common stock (the "Settlement Fund") and will
23 include interest that accrues on the fund prior to distribution. Your recovery from this
24 fund will depend on a number of variables, including the number of shares of Vitesse
25 common stock you purchased during the period January 27, 2003 to April 27, 2006
26 and the timing of your purchases and any sales. Depending in part on the value of the
27 Vitesse common stock (currently about \$1.00/share) to be distributed to Class
28 Members and if claims are submitted for 100% of the number of shares eligible for
distribution under the Plan of Allocation (which is not expected to occur), the

1 estimated average distribution per share will be approximately \$0.06 before deduction
2 of Court-approved fees and expenses. Historically, actual claim rates are less than
3 100% and result in higher distributions per share.

4 Lead Plaintiff and Defendants do not agree on the average amount of damages
5 per share that would be recoverable if the Lead Plaintiff were to have prevailed on
6 each claim alleged. The issues on which the parties disagree include: (1) the
7 appropriate economic model for determining the amount by which the price of Vitesse
8 common stock was allegedly artificially inflated (if at all) during the Class Period; (2)
9 the amount by which the price of Vitesse common stock was allegedly artificially
10 inflated (if at all) during the Class Period; (3) the effect of various market forces
11 influencing the trading price of Vitesse common stock at various times during the
12 Class Period; (4) the extent to which external factors, such as general market and
13 industry conditions, influenced the trading price of Vitesse common stock at various
14 times during the Class Period; (5) the extent to which the various matters that Lead
15 Plaintiff alleged were materially false or misleading influenced (if at all) the trading
16 price of Vitesse common stock at various times during the Class Period; (6) the extent
17 to which the various allegedly adverse material facts that Lead Plaintiff alleged were
18 omitted influenced (if at all) the trading price of Vitesse common stock at various
19 times during the Class Period; and (7) whether the statements made or facts allegedly
20 omitted were material, false, misleading or otherwise actionable under the securities
21 laws.

22 The Lead Plaintiff believes that the proposed settlement is a good recovery and
23 is in the best interests of the Class. Because of the risks associated with continuing to
24 litigate and proceeding to trial, there was a danger that the Class would not have
25 prevailed on any of their claims, in which case the Class would receive nothing. The
26 amount of damages recoverable by the Class was and is challenged by Defendants.
27 Recoverable damages in this case are limited to losses caused by conduct actionable
28 under applicable law and, had the Litigation gone to trial, Defendants would have

1 asserted that any losses of Class Members were caused by non-actionable market,
2 industry or general economic factors. Defendants would also assert that throughout
3 the Class Period the uncertainties and risks associated with the purchase of Vitesse
4 common stock were fully and adequately disclosed.

5 At a future date, upon further notice to the Class and an opportunity to be heard,
6 Lead Counsel and Lead Plaintiff will apply to the Court for an award of attorneys'
7 fees and expenses. At the direction of the Lead Plaintiff, no attorneys' fees or
8 expenses are being sought at this time. However, if Lead Counsel were to apply for
9 fees and expenses now, the application would be for 28% of the Settlement Fund for
10 fees plus expenses not to exceed \$223,000. Each member of the Rodriguez Lead
11 Plaintiff Group has approved these amounts. In addition, Lead Plaintiff would request
12 up to \$34,000 in expenses incurred in connection with representation of the Class.
13 The average cost per share of the total of such amounts would be \$0.02. For further
14 information regarding this settlement you may contact Lead Counsel: Paul O. Paradis,
15 Horwitz, Horwitz & Paradis, Attorneys at Law, 28 West 44th Street, 16th Floor, New
16 York, New York 10036, 212/404-2200.

17 **I. NOTICE OF HEARING ON PROPOSED SETTLEMENT**

18 A hearing (the "Settlement Hearing") will be held on March 17, 2008, at 10:00
19 a.m., before the Honorable Manuel L. Real, Courtroom 8, United States District
20 Judge, United States District Court, Central District of California, Western Division,
21 312 North Spring Street, Los Angeles, California. The purpose of the Settlement
22 Hearing will be to determine: (1) whether the settlement consisting of \$10,200,000 in
23 cash and 3,948,014 shares of Vitesse common stock should be approved as fair,
24 reasonable and adequate to the Members of the Class (as defined below); (2) whether
25 the proposed plan to distribute the settlement proceeds (the "Plan of Allocation") is
26 fair, reasonable, and adequate; and (3) whether the Litigation should be dismissed
27 with prejudice as to the settling defendants. The Court may adjourn or continue the
28 Settlement Hearing without further notice to the Class.

1 **II. DEFINITIONS USED IN THIS NOTICE**

2 1. "Authorized Claimant" means any Class Member whose claim for
3 recovery has been allowed pursuant to the terms of the Stipulation.

4 2. "Claims Administrator" means the firm of Berdon Claims
5 Administration, LLC.

6 3. "Class" means all Persons who purchased Vitesse Semiconductor
7 Corporation common stock between January 27, 2003 and April 27, 2006, inclusive.
8 Excluded from the Class are the Company, the officers and directors, employees,
9 affiliates, legal representatives, heirs, predecessors, successors and assigns, and any
10 entity in which the Company has a controlling interest or of which the Company is a
11 parent or subsidiary.

12 4. "Class Member" or "Member of the Class" mean a Person who falls
13 within the definition of the Class as set forth in paragraph 3 above.

14 5. "Class Period" means the period commencing on January 27, 2003
15 through April 27, 2006, inclusive.

16 6. "Defendants" means Vitesse, Dr. Vincent Chan, James A. Cole, Alex
17 Daly, Moshe Gavrielov, John C. Lewis, Dr. Louis Tomasetta, Yatin Mody, Eugene F.
18 Hovanec, and Edward Rogas, Jr. Messrs. Chan, Cole, Daly, Gavrielov, Lewis, and
19 Rogas were not named as defendants in the operative Consolidated Amended Class
20 Action Complaint for Securities Fraud, although each was named as a defendant in
21 one or more of the complaints filed in this Litigation before the filing of the
22 Consolidated Amended Class Action Complaint for Securities Fraud. "Defendants"
23 does not include the Non-Settling Defendants, as defined below.

24 7. "Lead Counsel" means Paul O. Paradis, Horwitz, Horwitz & Paradis,
25 Attorneys at Law, 28 West 44th Street, 16th Floor, New York, New York 10036.

26 8. "Lead Plaintiff" means The Rodriguez Group.
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1 9. "Person" means an individual, corporation, partnership, limited
2 partnership, association, joint stock company, estate, legal representative, trust,
3 unincorporated association, government or any political subdivision or agency thereof,
4 and any business or legal entity and their spouses, heirs, predecessors, successors,
5 representatives, or assignees.

6 10. "Plan of Allocation" means a plan or formula of allocation of the
7 Settlement Fund whereby the Settlement Fund shall be distributed to Authorized
8 Claimants after payment of expenses of notice and administration of the settlement,
9 Taxes and Tax Expenses and such attorneys' fees, costs, expenses and interest as may
10 be awarded by the Court. Any Plan of Allocation is not part of the Stipulation and
11 neither Defendants nor their Related Parties shall have any responsibility or liability
12 with respect thereto.

13 11. "Released Claims" shall collectively mean all claims (including
14 "Unknown Claims" as defined below), demands, rights, liabilities and causes of action
15 of every nature and description whatsoever, known or unknown, whether or not
16 concealed or hidden, asserted or that might have been asserted, including, without
17 limitation, claims for negligence, gross negligence, breach of duty of care and/or
18 breach of duty of loyalty, fraud, breach of fiduciary duty, or violations of any state or
19 federal statutes, rules or regulations, by the Lead Plaintiffs or any Class Member
20 against the Defendants or their Related Parties arising out of, based upon or related in
21 any way to both the purchase of Vitesse common stock during the Class Period and
22 the facts, transactions, events, occurrences, acts, disclosures, statements, omissions, or
23 failures to act which were or could have been alleged in the Litigation.

24 12. "Released Persons" means each and all of the Defendants and each and
25 all of the Related Parties. Released Persons does not include the Non-Settling
26 Defendants, as defined below.

27 13. "Related Parties" means any Defendants' past or present directors,
28 officers, employees, partners, insurers, co-insurers, reinsurers, agents, controlling

1 shareholders, attorneys, personal or legal representatives, predecessors, successors,
2 parents, subsidiaries, divisions, joint ventures, assigns, spouses, heirs, related or
3 affiliated entities, any entity in which a Defendant has a controlling interest, any
4 members of a Defendant's immediate family, any trust of which any Defendant is the
5 settlor or which is for the benefit of a Defendant's family, and all officers, directors,
6 employees and insurers of Vitesse's current and former subsidiaries. Related Parties
7 does not include the Non-Settling Defendants.

8 14. "Settling Parties" means, collectively, the Defendants and the Lead
9 Plaintiff on behalf of itself and the Members of the Class.

10 15. "Unknown Claims" means any Released Claims which the Lead Plaintiff
11 or any Class Member does not know or suspect to exist in his, her or its favor at the
12 time of the release of the Released Persons which, if known by him, her or it, might
13 have affected his, her or its settlement with and release of the Released Persons, or
14 might have affected his, her or its decision not to object to this settlement. With
15 respect to any and all Released Claims, the Settling Parties stipulate and agree that,
16 upon the Effective Date, the Lead Plaintiff shall expressly and each of the Class
17 Members shall be deemed to have, and by operation of the Judgment shall have,
18 expressly waived the provisions, rights and benefits of California Civil Code §1542,
19 which provides:

20 **A general release does not extend to claims which the creditor**
21 **does not know or suspect to exist in his or her favor at the time of**
22 **executing the release, which if known by him or her must have**
23 **materially affected his or her settlement with the debtor.**

24 The Lead Plaintiff shall expressly waive and each of the Class Members shall be
25 deemed to have waived, and by operation of the Judgment shall have expressly
26 waived any and all provisions, rights and benefits conferred by any law of any state or
27 territory of the United States, or principle of common law, which is similar,
28 comparable or equivalent to California Civil Code §1542. The Lead Plaintiff and
Class Members may hereafter discover facts in addition to or different from those

1 which he, she or it now knows or believes to be true with respect to the subject matter
2 of the Released Claims, but the Lead Plaintiff shall expressly fully, finally and forever
3 settle and release, and each Class Member, upon the Effective Date, shall be deemed
4 to have, and by operation of the Judgment shall have, fully, finally, and forever settled
5 and released any and all Released Claims, known or unknown, suspected or
6 unsuspected, contingent or non-contingent, whether or not concealed or hidden, which
7 now exist, or heretofore have existed, upon any theory of law or equity now existing
8 or coming into existence in the future, including, but not limited to, conduct which is
9 negligent, intentional, with or without malice, or a breach of any duty, law or rule,
10 without regard to the subsequent discovery or existence of such different or additional
11 facts. The Lead Plaintiff acknowledges, and the Class Members shall be deemed by
12 operation of the Judgment to have acknowledged, that the foregoing waiver was
13 separately bargained for and a key element of the settlement of which this release is a
14 part.

15 16. "Non-Settling Defendants" means KPMG LLP and each of its auditors,
16 partners, officers, directors, employees, predecessors, successors, parents,
17 subsidiaries, affiliates, custodians, agents, assigns, and representatives, including but
18 not limited to KPMG International; Silicon Valley Bank and each of its officers,
19 directors, employees, predecessors, successors, parents, subsidiaries, assigns, and
20 representatives; Nu Horizons Electronic Corp. and each of its officers, directors,
21 employees, predecessors, successors, parents, subsidiaries, assigns, and
22 representatives; and Titan Supply Chain Services Corp. (f/n/a Titan Logistics Corp.)
23 and each of its officers, directors, employees, predecessors, successors, parents,
24 subsidiaries, assigns, and representatives.

25 **III. THE LITIGATION**

26 On and after May 1, 2006, actions were filed in the United States District Court
27 for the Central District of California (the "Court") as securities class actions on behalf
28

1 of purchasers of Vitesse Semiconductor Corporation (“Vitesse”) publicly traded
2 securities during a defined period of time.

3 These actions were consolidated for all purposes by an order filed June 30,
4 2006. The consolidated actions are referred to herein collectively as the “Litigation”
5 or “Action.” On September 26, 2006, The Rodriguez Group was appointed Lead
6 Plaintiff, and Paul O. Paradis was appointed as Lead Counsel for The Rodriguez
7 Group.

8 The operative complaint in the Litigation is the Consolidated Amended Class
9 Action Complaint for Securities Fraud (the “Complaint”), filed by The Rodriguez
10 Group on October 4, 2007. The Complaint alleges violations of §§10(b) and 20(a) of
11 the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder on
12 behalf of a class of purchasers of Vitesse common stock.

13 **IV. CLAIMS OF THE LEAD PLAINTIFFS AND BENEFITS OF**
14 **SETTLEMENT**

15 The Lead Plaintiff believes that the claims asserted in the Litigation have merit
16 and that the evidence developed to date supports the claims. However, Lead Plaintiff
17 and Lead Counsel recognize and acknowledge the expense and length of continued
18 proceedings necessary to prosecute the Litigation against the Defendants through trial
19 and through appeals. Lead Plaintiff and Lead Counsel have also taken into account
20 the uncertain outcome and the risk of any litigation, especially in complex actions
21 such as the Litigation, as well as the difficulties and delays inherent in such litigation.
22 Lead Plaintiff and Lead Counsel also are mindful of the inherent problems of proof
23 under and possible defenses to the securities law violations asserted in the Litigation.
24 Lead Plaintiff and Lead Counsel believe that the settlement set forth in the Stipulation
25 confers substantial benefits upon the Class. Based on their evaluation, Lead Plaintiff
26 and Lead Counsel have determined that the settlement set forth in the Stipulation is in
27 the best interests of the Lead Plaintiff and the Class.

28

1 **V. DEFENDANTS' STATEMENT AND DENIALS OF**
2 **WRONGDOING AND LIABILITY**

3 The Defendants have denied and continue to deny each and all of the claims and
4 contentions alleged in the Litigation. The Defendants expressly have denied and
5 continue to deny all charges of wrongdoing or liability against them arising out of any
6 of the conduct, statements, acts or omissions alleged, or that could have been alleged,
7 in the Litigation. The Defendants also have denied and continue to deny, *inter alia*,
8 the allegations that the Lead Plaintiff or the Class have suffered damage, that the price
9 of Vitesse publicly traded securities was artificially inflated by reasons of alleged
10 misrepresentations, non-disclosures or otherwise, or that the Lead Plaintiff or the
11 Class were harmed by the conduct alleged in the Complaint.

12 Nonetheless, the Defendants have concluded that further conduct of the
13 Litigation would be protracted and expensive, and that it is desirable that the
14 Litigation be fully and finally settled in the manner and upon the terms and conditions
15 set forth in this Stipulation. The Defendants also have taken into account the
16 uncertainty and risks inherent in any litigation, especially in complex cases like the
17 Litigation. The Defendants have, therefore, determined that it is desirable and
18 beneficial to them that the Litigation be settled in the manner and upon the terms and
19 conditions set forth in this Stipulation.

20 **VI. TERMS OF THE PROPOSED SETTLEMENT**

21 The Defendants have paid or caused to be paid or will pay or cause to be paid,
22 pursuant to the terms of the Amended Stipulation of Settlement dated as of October 5,
23 2007 (the "Stipulation"), cash in the amount of \$10,200,000 which has been earning
24 and will continue to earn interest for the benefit of the Class and 3,922,669 shares of
25 Vitesse common stock.

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27
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1 The \$10,200,000 in cash is comprised of the following payments: (a)
2 \$8,7500,000.00 from the Defendants' directors' and officers' liability insurers, (b)
3 \$1,200,000 from Louis R. Tomasetta, and (c) \$250,000 from Eugene F. Hovanec.

4 The 3,922,669 shares of Vitesse common stock is comprised of the following:
5 (a) 2,650,000 shares of Vitesse common stock transferred from Vitesse, (b)
6 814,655 shares of Vitesse common stock transferred from Louis R. Tomasetta, and (c)
7 458,014 shares of Vitesse common stock transferred from Eugene F. Hovanec.

8 Defendants Chan, Cole, Daly, Gavriellov, Lewis, Mody, and Rogas will make
9 no direct payment as part of this settlement or the settlement of the Federal Derivative
10 Action. However, each of these individuals is a named insured under the two
11 directors' and officers' liability insurance policies which are contributing to the
12 Settlement Fund. Moreover, Mr. Mody will cooperate in the prosecution of class
13 claims against other persons and entities.

14 A portion of the settlement proceeds will be used for certain administrative
15 expenses, including costs of printing and mailing this Notice, the cost of publishing a
16 newspaper notice, payment of any taxes assessed against the Settlement Fund and
17 costs associated with the processing of claims submitted. In addition, as explained
18 below, a portion of the Settlement Fund may be awarded by the Court to Lead
19 Counsel as attorneys' fees and for payment of the attorneys' and the Lead Plaintiff'
20 expenses. The balance of the Settlement Fund (the "Net Settlement Fund") will be
21 distributed according to the Plan of Allocation described below to Class Members
22 who submit valid and timely Proof of Claim and Release forms.

23 **VII. THE RIGHTS OF CLASS MEMBERS**

24 If you are a Class Member, you may receive the benefit of, and you will be
25 bound by the terms of, the proposed settlement described in this Notice, upon
26 approval of it by the Court.

27 If you are a Class Member, you have the following options:
28

1 1. You may file a Proof of Claim and Release as described below. If you
2 choose this option, you will remain a Class Member, you will share in the proceeds of
3 the proposed settlement if your claim is timely and valid and if the proposed
4 settlement is finally approved by the Court, and you will be bound by the Judgment
5 and release described below.

6 2. If you do not wish to be included in the Class and you do not wish to
7 participate in the proposed settlement described in this Notice, you may request to be
8 excluded. To do so, you must so state in writing postmarked no later than February
9 25, 2008. You must set forth: (a) your name, address and telephone number; (b) the
10 number of shares of Vitesse common stock purchased and the number of shares sold
11 during the Class Period and the dates and prices of such purchase(s) and/or sale(s);
12 and (c) that you wish to be excluded from the Class. The exclusion request should be
13 addressed as follows:

14 *Vitesse Securities Litigation*
15 Claims Administrator
16 c/o Berdon Claims Administration, LLC
 P.O. Box 9014
 Jericho, NY 11753-8914

17 NO REQUEST FOR EXCLUSION WILL BE CONSIDERED VALID UNLESS
18 ALL OF THE INFORMATION DESCRIBED ABOVE IS INCLUDED IN ANY
19 SUCH REQUEST.

20 3. If you validly request exclusion from the Class, (a) you will be excluded
21 from the Class, (b) you will not share in the proceeds of the settlement described
22 herein, (c) you will not be bound by any judgment entered in the Litigation, and (d)
23 you will not be precluded, by reason of your decision to request exclusion from the
24 Class, from otherwise prosecuting an individual claim, if timely, against Defendants
25 based on the matters complained of in the Litigation.

26 4. If you do not request in writing to be excluded from the Class as set forth
27 in paragraph 2 above, you will be bound by any and all determinations or judgments
28 in the Litigation in connection with the settlement entered into or approved by the

1 Court, whether favorable or unfavorable to the Class, and you shall be deemed to
2 have, and by operation of the Judgment shall have, fully released all of the Released
3 Claims against the Released Persons, whether or not you submit a valid Proof of
4 Claim and Release form.

5 5. You may do nothing at all. If you choose this option, you will not share
6 in the proceeds of the settlement, but you will be bound by any judgment entered by
7 the Court, and you shall be deemed to have, and by operation of the Judgment shall
8 have, fully released all of the Released Claims against the Released Persons.

9 6. If you are a Class Member, you may, but are not required to, enter an
10 appearance through counsel of your own choosing at your own expense. If you do not
11 do so, you will be represented by Lead Counsel: Paul O. Paradis, Horwitz, Horwitz &
12 Paradis, Attorneys at Law, 28 West 44th Street, 16th Floor, New York, New York
13 10036.

14 **VIII. PLAN OF ALLOCATION**

15 The Net Settlement Fund will be distributed to Class Members who submit
16 valid, timely Proof of Claim and Release forms (“Authorized Claimants”) under the
17 Plan of Allocation described below. The Plan of Allocation provides that you will be
18 eligible to participate in the distribution of the Net Settlement Fund only if you have a
19 net loss on all transactions in Vitesse common stock during the Class Period.

20 For purposes of determining the amount an Authorized Claimant may recover
21 under the Plan of Allocation, Lead Counsel have consulted with their damage
22 consultants and the Plan of Allocation reflects an assessment of the damages that they
23 believe could have been recovered had Lead Plaintiff prevailed at trial.

24 To the extent there are sufficient funds in the Net Settlement Fund, each
25 Authorized Claimant will receive an amount equal to the Authorized Claimant’s
26 claim, as defined below. If, as is more likely than not, the amount in the Net
27 Settlement Fund is not sufficient to permit payment of the total claim of each
28

1 Authorized Claimant, then each Authorized Claimant shall be paid the percentage of
2 the Net Settlement Fund that each Authorized Claimant's claim bears to the total of
3 the claims of all Authorized Claimants. Payment in this manner shall be deemed
4 conclusive against all Authorized Claimants.

5 A claim will be calculated as follows:

6 1. For each share of Vitesse common stock that was purchased on or after
7 January 27, 2003 and that was still held as of the close of trading on April 27, 2006,
8 the Recognized Loss per share is the Alleged Inflation amount on the date of purchase
9 indicated on Table A.

10 2. For each share of Vitesse common stock that was purchased on or after
11 January 27, 2003 and sold before April 19, 2006, there is no Recognized Loss. This
12 determination was made because the purchase and the sale occurred before any
13 adverse information was publicly disclosed. Thus, any losses that Class Members
14 may have suffered with respect to shares of Vitesse common stock that were
15 purchased from January 27, 2003 through and including April 18, 2006, that were sold
16 before April 19, 2006, were not related to the alleged misstatements or omissions and
17 are not compensable through an action for violation of the securities laws.

18 3. For each share of Vitesse common stock that was purchased on or after
19 January 27, 2003 and before April 19, 2006, and then sold between April 19, 2006 and
20 April 27, 2006 (inclusive), the Recognized Loss per share is the Alleged Inflation
21 amount on the date of purchase indicated on Table A minus the Alleged Inflation
22 amount on the date of sale indicated on Table A.

23 4. For each share of Vitesse common stock that was purchased from April
24 19, 2006 through and including April 27, 2006, and subsequently sold on or before
25 April 27, 2006, the Recognized Loss per share is the Alleged Inflation amount on the
26 date of purchase indicated on Table A minus the Alleged Inflation amount on the date
27 of sale indicated on Table A.

28

1 5. “Aggregate Recognized Loss” in Vitesse common stock during the Class
2 Period, is the sum total of the Claimant’s Recognized Losses per share multiplied by
3 the number of shares associated with each transaction described above pursuant to
4 subparagraphs (i) – (iv).

5 The date of purchase or sale is the “contract” or “trade” date as distinguished
6 from the “settlement” date.

7 For Class Members who held Vitesse common stock at the beginning of the
8 Class Period or made multiple purchases or sales during the Class Period, the first-in,
9 first-out (“FIFO”) method will be applied to such holdings, purchases and sales for
10 purposes of calculating a claim. Under the FIFO method, sales of shares during the
11 Class Period will be matched, in chronological order, first against securities held at the
12 beginning of the Class Period. The remaining sales of securities during the Class
13 Period will then be matched, in chronological order, against securities purchased
14 during the Class Period.

15 A Class Member will be eligible to receive a distribution from the Net
16 Settlement Fund only if a Class Member had a net loss, after all profits from
17 transactions in Vitesse common stock during the Class Period are subtracted from all
18 losses. However, the proceeds from sales of securities which have been matched
19 against stock held at the beginning of the Class Period will not be used in the
20 calculation of such net loss. No distributions will be made to Authorized Claimants
21 who would otherwise receive a distribution of less than \$10.00.

22 The Court has reserved jurisdiction to allow, disallow or adjust the claim of any
23 Class Member on equitable grounds.

24 Payment pursuant to the Plan of Allocation set forth above shall be conclusive
25 against all Authorized Claimants. No Person shall have any claim against Lead
26 Counsel, Plaintiffs’ Counsel or any Claims Administrator or Defendants or other
27 person designated by Lead Counsel or Defendants or Defendants’ counsel based on
28 distributions made substantially in accordance with the Stipulation and the settlement

1 contained therein, the Plan of Allocation, or further orders of the Court. All Class
2 Members who fail to complete and file a valid and timely Proof of Claim and Release
3 form shall be barred from participating in distributions from the Net Settlement Fund
4 (unless otherwise ordered by the Court), but otherwise shall be bound by all of the
5 terms of the Stipulation, including the terms of any judgment entered and the releases
6 given.

7 **IX. PARTICIPATION IN THE SETTLEMENT**

8 **TO PARTICIPATE IN THE DISTRIBUTION OF THE NET**
9 **SETTLEMENT FUND, YOU MUST TIMELY COMPLETE AND RETURN**
10 **THE PROOF OF CLAIM AND RELEASE FORM THAT ACCOMPANIES**
11 **THIS NOTICE.** The Proof of Claim and Release must be postmarked on or before
12 March 16, 2008, and delivered to the Claims Administrator at the address below.
13 Unless the Court orders otherwise, if you do not timely submit a valid Proof of Claim
14 and Release, you will be barred from receiving any payments from the Net Settlement
15 Fund, but will in all other respects be bound by the provisions of the Stipulation and
16 the Judgment.

17 **X. DISMISSAL AND RELEASES**

18 If the proposed settlement is approved, the Court will enter a Final Judgment
19 and Order of Dismissal with Prejudice (“Judgment”). The Judgment will dismiss the
20 Released Claims with prejudice as to all Defendants except the Non-Settling
21 Defendants. The Judgment will provide that all Class Members shall be deemed to
22 have released and forever discharged all Released Claims (to the extent Members of
23 the Class have such claims) against all Released Persons and that the Released
24 Persons shall be deemed to have released and discharged all Class Members, Lead
25 Plaintiff, Lead Counsel and Plaintiffs’ Counsel from all claims arising out of the
26 prosecution and settlement of the Litigation or the Released Claims.
27
28

1 **XI. APPLICATION FOR FEES AND EXPENSES**

2 Lead Counsel do not intend to seek an award of attorneys' fees and expenses at
3 this time. Any such application will only occur after a further notice to the class and
4 an opportunity to be heard.

5 **XII. CONDITIONS FOR SETTLEMENT**

6 The settlement is conditioned upon the occurrence of certain events described in
7 the Stipulation. Those events include, among other things: (1) entry of the Judgment
8 by the Court, as provided for in the Stipulation; (2) expiration of the time to appeal
9 from or alter or amend the Judgment; and (3) the dismissal of related derivative
10 actions pending in federal and state court. If, for any reason, any one of the conditions
11 described in the Stipulation is not met, the Stipulation might be terminated and, if
12 terminated, will become null and void, and the parties to the Stipulation will be
13 restored to their respective positions as of September 23, 2007. In addition, Vitesse
14 has the option to terminate the settlement if persons who are otherwise Class Members
15 and purchased in the aggregate 98.6 million shares or more of Vitesse common stock
16 during the Class Period request exclusion from the Class.

17 **XIII. THE RIGHT TO BE HEARD AT THE HEARING**

18 Any Class Member who objects to any aspect of the settlement or the Plan of
19 Allocation may appear and be heard at the Settlement Hearing. Any such Person must
20 submit a written notice of objection, received on or before February 25, 2008, by each
21 of the following:

22 *Court:*

23 CLERK OF THE COURT
24 UNITED STATES DISTRICT COURT
25 CENTRAL DISTRICT OF CALIFORNIA
26 WESTERN DIVISION
27 312 North Spring Street
28 Los Angeles, CA 90012

*Lead Counsel for Lead Plaintiff
The Rodriguez Group:*

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HORWITZ, HORWITZ & PARADIS
ATTORNEYS AT LAW
PAUL O. PARADIS
28 West 44th Street, 16th Floor
New York, NY 10036

Counsel for Defendants:

KATTEN MUCHIN ROSENMAN LLP
BRUCE G. VANYO
ANNISA D. SEYMOUR
MARISA WESTERVELT
2029 Century Park East, Suite 2600
Los Angeles, CA 90067-6042

Attorneys for Defendants Vincent Chan, James A.
Cole, Alex Daly and John C. Lewis

O'MELVENY & MYERS LLP
SETH ARONSON
DAVID I. HURWITZ
MARC S. WILLIAMS
TRISTAN SORAH-REYES
400 South Hope Street
Suite 1060
Los Angeles, CA 90071-2899

Attorneys for Defendants Moshe Gavrielov,
Edward Rogas, Jr. and Vitesse Semiconductor
Corporation

MICHAEL GREEN
VICE PRESIDENT, GENERAL COUNSEL
AND SECRETARY
VITESSE SEMICONDUCTOR CORPORATION
741 Calle Plano
Camarillo, CA 93012

Attorneys for Defendant Vitesse Semiconductor
Corporation

HELLER EHRMAN LLP
SARA B. BRODY
HOWARD CARO
MADELEINE LOH
333 Bush Street, Suite 3100
San Francisco, CA 94104-2878

Attorney for Defendant Eugene F. Hovanec

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MORRISON & FOERSTER, LLP
DAN MARMALEFSKY
JAMES P. MANISCALCO
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

Attorney for Defendant Louis R. Tomasetta

IRELL & MANELLA LLP
DAVID SIEGEL
DANIEL LEFLER
GLENN VANZURA
1800 Avenue of the Stars
Suite 900
Los Angeles, CA 90067-4276

Attorney for Defendant Yatin Mody

The notice of objection must demonstrate the objecting Person’s membership in the Class, including the number of shares of Vitesse common stock purchased and sold during the Class Period and contain a statement of the reasons for objection. Only Members of the Class who have submitted written notices of objection in this manner will be entitled to be heard at the Settlement Hearing, unless the Court orders otherwise.

XIV. SPECIAL NOTICE TO NOMINEES

If you hold any Vitesse common stock purchased during the Class Period as nominee for a beneficial owner, then, within ten (10) days after you receive this Notice, you must either: (1) send a copy of this Notice and the Proof of Claim and Release by first class mail to all such Persons; or (2) provide a list of the names and addresses of such Persons to the Claims Administrator:

Vitesse Securities Litigation
Claims Administrator
c/o Berdon Claims Administration, LLC
P.O. Box 9014
Jericho, NY 11753-8914

If you choose to mail the Notice and Proof of Claim and Release yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing.

1 Regardless of whether you choose to complete the mailing yourself or elect to
2 have the mailing performed for you, you may obtain reimbursement for or
3 advancement of reasonable administrative costs actually incurred or expected to be
4 incurred in connection with forwarding the Notice and Proof of Claim and Release
5 and which would not have been incurred but for the obligation to forward the Notice
6 and Proof of Claim and Release, upon submission of appropriate documentation to the
7 Claims Administrator.

8 **XV. EXAMINATION OF PAPERS**

9 This Notice is a summary and does not describe all of the details of the
10 Stipulation. For full details of the matters discussed in this Notice, you may review
11 the Stipulation filed with the Court, which may be inspected during business hours, at
12 the office of the Clerk of the Court, Central District of California, Western Division,
13 312 North Spring Street, Los Angeles, California, or at www.berdonclaims.com.

14 If you have any questions about the settlement of the Litigation, you may
15 contact Lead Counsel by writing:

16 HORWITZ, HORWITZ & PARADIS
17 ATTORNEYS AT LAW
18 PAUL O. PARADIS
 28 West 44th Street, 16th Floor
 New York, NY 10036

19 **DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE.**

20
21 DATED: _____, 2008

22 BY ORDER OF THE COURT
23 UNITED STATES DISTRICT COURT
24 CENTRAL DISTRICT OF CALIFORNIA
25 WESTERN DIVISION

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S:\Settlement\Vitesse.set\11-16-07 Final Revised Documents\12-19 CLEAN v9 - Class Action - Notice of Pendency and Proposed Settlement.doc

1 PAUL R. KIESEL (SBN 119854)
KIESEL BOUCHER LARSON LLP
2 8648 Wilshire Boulevard
Beverly Hills, California 90211-2910
3 Telephone: 310/854.4444
310/854.0812 (fax)

4 HORWITZ, HORWITZ & PARADIS
5 Attorneys at Law
PAUL O. PARADIS
6 28 West 44th Street, 16th Floor
New York, NY 10036
7 Telephone: 212/404-2200
212/404-2226 (fax)

8 Lead Counsel For Lead Plaintiff The Rodriguez Group
9

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION

13 LOUIS GRASSO, individually and on
14 behalf of all others similarly situated,

15 Plaintiff,

16 vs.

17 VITESSE SEMICONDUCTOR
CORPORATION, DR. VINCENT
18 CHAN, PH.D., JAMES A. COLE, ALEX
DALY, MOSHE GAVRIELOV, JOHN C.
19 LEWIS, DR. LOUIS TOMASETTA,
PH.D., YATIN MODY, EUGENE F.
20 HOVANEC and EDWARD ROGAS, JR.,

21 Defendants.

) No. CV 06-02639

) CLASS ACTION

) PROOF OF CLAIM AND RELEASE

) EXHIBIT A-2

1 **I. GENERAL INSTRUCTIONS**

2 1. To recover as a Member of the Class based on your claims in the action
3 entitled *Grasso v. Vitesse Semiconductor Corporation, et al.*, Case No. 06-2639-
4 R(CTx) (the "Litigation"), you must complete and, on page ___ hereof, sign this Proof
5 of Claim and Release. If you fail to submit a properly addressed (as set forth in
6 paragraph 3 below) Proof of Claim and Release, your claim may be rejected and you
7 may be precluded from any recovery from the Net Settlement Fund created in
8 connection with the proposed settlement of the Litigation.

9 2. Submission of this Proof of Claim and Release, however, does not assure
10 that you will share in the proceeds of settlement in the Litigation.

11 3. **YOU MUST MAIL YOUR COMPLETED AND SIGNED PROOF**
12 **OF CLAIM AND RELEASE POSTMARKED ON OR BEFORE APRIL 21,**
13 **2008, ADDRESSED AS FOLLOWS:**

14 *Vitesse Securities Litigation*
15 Berdon Claims Administration, LLC
16 P.O. Box 9014
17 Jericho, NY 11753-8914

18 If you are NOT a Member of the Class (as defined in the "Notice of Pendency and
19 Proposed Settlement of Class Action") DO NOT submit a Proof of Claim and Release
20 form.

21 4. If you are a Member of the Class, and you do not timely request
22 exclusion, you are bound by the terms of any judgment entered in the Litigation,
23 **WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM AND RELEASE**
24 **FORM.**

25 **II. DEFINITIONS**

26 1. "Defendants" means Vitesse, Dr. Vincent Chan, James A. Cole, Alex
27 Daly, Moshe Gavrielov, John C. Lewis, Dr. Louis Tomasetta, Yatin Mody, Eugene F.
28 Hovanec, and Edward Rogas, Jr.

1 2. “Released Persons” means each and all of the Defendants and each and
2 all of the Related Parties. Released Persons does not include the Non-Settling
3 Defendants.

4 3. “Related Parties” means any Defendants’ past or present directors,
5 officers, employees, partners, insurers, co-insurers, reinsurers, agents; controlling
6 shareholders, attorneys, personal or legal representatives, predecessors, successors,
7 parents, subsidiaries, divisions, joint ventures, assigns, spouses, heirs, related or
8 affiliated entities, any entity in which a Defendant has a controlling interest, any
9 members of a Defendant’s immediate family, any trust of which any Defendant is the
10 settlor or which is for the benefit of a Defendant’s family, and all officers, directors,
11 employees and insurers of Vitesse’s current and former subsidiaries. Related Parties
12 does not include the Non-Settling Defendants.

13 **III. CLAIMANT IDENTIFICATION**

14 If you purchased or acquired Vitesse common stock and held the certificate(s)
15 in your name, you are the beneficial purchaser as well as the record purchaser. If,
16 however, the certificate(s) were registered in the name of a third party, such as a
17 nominee or brokerage firm, you are the beneficial purchaser and the third party is the
18 record purchaser.

19 Use Part I of this form entitled “Claimant Identification” to identify each
20 purchaser of record (“nominee”), if different from the beneficial purchaser of Vitesse
21 common stock which forms the basis of this claim. THIS CLAIM MUST BE FILED
22 BY THE ACTUAL BENEFICIAL PURCHASER OR PURCHASERS, OR THE
23 LEGAL REPRESENTATIVE OF SUCH PURCHASER OR PURCHASERS, OF
24 THE VITESSE COMMON STOCK UPON WHICH THIS CLAIM IS BASED.

25 All joint purchasers or acquirors must sign this claim. Executors,
26 administrators, guardians, conservators and trustees must complete and sign this claim
27 on behalf of Persons represented by them and their authority must accompany this
28 claim and their titles or capacities must be stated. The Social Security (or taxpayer

1 identification) number and telephone number of the beneficial owner may be used in
2 verifying the claim. Failure to provide the foregoing information could delay
3 verification of your claim or result in rejection of the claim.

4 **IV. CLAIM FORM**

5 1. Use Part II of this form entitled "Schedule of Transactions in Vitesse
6 common stock" to supply all required details of your transaction(s) in Vitesse
7 common stock. If you need more space or additional schedules, attach separate sheets
8 giving all of the required information in substantially the same form. Sign and print or
9 type your name on each additional sheet.

10 2. On the schedules, provide all of the requested information with respect to
11 *all* of your purchases or acquisitions and *all* of your sales of Vitesse common stock
12 which took place at any time beginning January 27, 2003 through April 27, 2006,
13 inclusive (the "Class Period"), whether such transactions resulted in a profit or a loss.
14 Failure to report all such transactions may result in the rejection of your claim. Shares
15 of Vitesse common stock acquired during the Class Period by means of a gift,
16 inheritance or operation of law, do not qualify as the purchase of such shares on the
17 date of such acquisition. If, however, such stock was purchased during the Class
18 Period by the donor, decedent or transferor, then the recipient's claim will be
19 computed using the original purchase price on the original date of purchase, not the
20 date of transfer.

21 3. List each transaction in the Class Period separately and in chronological
22 order, by trade date, beginning with the earliest. You must accurately provide the
23 month, day and year of each transaction you list.

24 4. The date of covering a "short sale" is deemed to be the date of purchase
25 of Vitesse common stock. The date of a "short sale" is deemed to be the date of sale
26 of Vitesse common stock. Shares of Vitesse common stock originally sold short prior
27 to the Class Period shall receive no compensatory damages.

28

1 5. Broker confirmations or other documentation of your transactions in
2 Vitesse common stock should be attached to your claim. Failure to provide this
3 documentation could delay verification of your claim or result in rejection of your
4 claim.

5 6. The above requests are designed to provide the minimum amount of
6 information necessary to process the most simple claims. The Claims Administrator
7 may request additional information as required to efficiently and reliably calculate
8 your losses. In some cases where the Claims Administrator cannot perform the
9 calculation accurately or at a reasonable cost to the Class with the information
10 provided, the Claims Administrator may condition acceptance of the claim upon the
11 production of additional information and/or the hiring of an accounting expert at the
12 Claimant's cost.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

Grasso v. Vitesse Semiconductor Corporation, et al.
Case No. 06-2639

PROOF OF CLAIM AND RELEASE

Must be Postmarked on or Before: April 21, 2008
Please Type or Print

PART I: CLAIMANT IDENTIFICATION

Beneficial Owner's Name (First, Middle, Last)

Street Address

City

State or Province

Zip Code or Postal Code

Country

Social Security Number or
Taxpayer Identification Number

Individual
Corporation/Other

Area Code

Telephone Number (work)

Area Code

Telephone Number (home)

Record Owner's Name (if different from beneficial owner listed above)

1 PART II: SCHEDULE OF TRANSACTIONS IN VITESSE COMMON STOCK

2 A. Number of shares of Vitesse common stock held at the beginning of
3 trading on January 27, 2003: _____.

4 B. Purchases of Vitesse common stock (January 27, 2003 – April 27, 2006,
5 inclusive):

6 Trade Date Mo. Day Year	Number of Shares Purchased or Acquired	Total Purchase Price or Acquisition
7 1. _____	1. _____	1. _____
8 2. _____	2. _____	2. _____
9 3. _____	3. _____	3. _____

10 C. Sales of Vitesse common stock (January 27, 2003 – April 27, 2006,
11 inclusive):

12 Trade Date Mo. Day Year	Number of Shares Sold	Total Sales Price
13 1. _____	1. _____	1. _____
14 2. _____	2. _____	2. _____
15 3. _____	3. _____	3. _____

16 D. Number of shares of Vitesse common stock held at close of trading on
17 April 27, 2006: _____.

18 If you require additional space, attach extra schedules in the same format as above.
19 Sign and print your name on each additional page.

20 YOU MUST READ AND SIGN THE RELEASE ON PAGE _____.

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V. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS

1. I (We) submit this Proof of Claim and Release under the terms of the Stipulation of Settlement (“Stipulation”) described in the Notice. I (We) also submit to the jurisdiction of the United States District Court for the Central District of California, Western Division, with respect to my (our) claim as a Class Member and for purposes of enforcing the release set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in the Litigation. I (We) agree to furnish additional information such as transactions in other securities (including options) to the Claims Administrator to support this claim if required to do so. I (We) have not submitted any other claim covering the same purchases or sales of Vitesse common stock during the Class Period and know of no other Person having done so on my (our) behalf.

VI. RELEASE

1. I (We) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally and forever settle, release and discharge from the Released Claims each and all of the Released Persons.

2. “Released Claims” shall collectively mean all claims (including “Unknown Claims” as defined below), demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, whether or not concealed or hidden, asserted or that might have been asserted, including, without limitation, claims for negligence, gross negligence, breach of duty of care and/or breach of duty of loyalty, fraud, breach of fiduciary duty, or violations of any state or federal statutes, rules or regulations, by the Lead Plaintiffs or any Class Member against the Defendants or their Related Parties arising out of, based upon or related in any way to both the purchase of Vitesse common stock during the Class Period and the facts, transactions, events, occurrences, acts, disclosures, statements, omissions, or failures to act which were or could have been alleged in the Litigation.

1 3. “Unknown Claims” means any Released Claims which the Lead Plaintiff
2 or any Class Member does not know or suspect to exist in his, her or its favor at the
3 time of the release of the Released Persons which, if known by him, her or it, might
4 have affected his, her or its settlement with and release of the Released Persons, or
5 might have affected his, her or its decision not to object to this settlement. With
6 respect to any and all Released Claims, the Settling Parties stipulate and agree that,
7 upon the Effective Date, the Lead Plaintiff shall expressly and each of the Class
8 Members shall be deemed to have, and by operation of the Judgment shall have,
9 expressly waived the provisions, rights and benefits of California Civil Code §1542,
10 which provides:

11 **A general release does not extend to claims which the creditor**
12 **does not know or suspect to exist in his or her favor at the time of**
13 **executing the release, which if known by him or her must have**
14 **materially affected his or her settlement with the debtor.**

15 The Lead Plaintiff shall expressly waive and each of the Class Members shall be
16 deemed to have waived, and by operation of the Judgment shall have, expressly
17 waived any and all provisions, rights and benefits conferred by any law of any state or
18 territory of the United States, or principle of common law, which is similar,
19 comparable or equivalent to California Civil Code §1542. The Lead Plaintiff and
20 Class Members may hereafter discover facts in addition to or different from those
21 which he, she or it now knows or believes to be true with respect to the subject matter
22 of the Released Claims, but the Lead Plaintiff shall expressly fully, finally and forever
23 settle and release, and each Class Member, upon the Effective Date, shall be deemed
24 to have, and by operation of the Judgment shall have, fully, finally, and forever settled
25 and released any and all Released Claims, known or unknown, suspected or
26 unsuspected, contingent or non-contingent, whether or not concealed or hidden, which
27 now exist, or heretofore have existed, upon any theory of law or equity now existing
28 or coming into existence in the future, including, but not limited to, conduct which is
negligent, intentional, with or without malice, or a breach of any duty, law or rule,

1 without regard to the subsequent discovery or existence of such different or additional
2 facts. The Lead Plaintiff acknowledge, and the Class Members shall be deemed by
3 operation of the Judgment to have acknowledged, that the foregoing waiver was
4 separately bargained for and a key element of the settlement of which this release is a
5 part.

6 4. This release shall be of no force or effect unless and until the Court
7 approves the Stipulation of Settlement and the Stipulation becomes effective on the
8 Effective Date (as defined in the Stipulation).

9 5. I (We) hereby warrant and represent that I (we) have not assigned or
10 transferred or purported to assign or transfer, voluntarily or involuntarily, any matter
11 released pursuant to this release or any other part or portion thereof.

12 6. I (We) hereby warrant and represent that I (we) have included
13 information about all of my (our) transactions in Vitesse common stock which
14 occurred during the Class Period as well as the number and type of Vitesse common
15 stock held by me (us) at the opening of trading on January 27, 2003 and at the close of
16 trading on April 27, 2006.

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SEE ENCLOSED FORM W-9 INSTRUCTIONS

The Internal Revenue Service does not require your consent to any provision of this document other than the certification required to avoid backup withholding.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information supplied by the undersigned is true and correct.

Executed this _____ day of _____,
(Month / Year)
in _____, _____.
(City) (State / Country)

(Sign your name here)

(Type or print your name here)

(Capacity of person(s) signing,
e.g., Beneficial Purchaser,
Executor or Administrator)

**ACCURATE CLAIMS PROCESSING TAKES A
SIGNIFICANT AMOUNT OF TIME.
THANK YOU FOR YOUR PATIENCE.**

1 Reminder Checklist:

- 2 1. Please sign the above release and declaration.
- 3 2. Remember to attach supporting documentation, if available.
- 4 3. Do not send original stock certificates.
- 5 4. Keep a copy of your claim form for your records.
- 6 5. If you desire an acknowledgment of receipt of your claim form, please
- 7 send it Certified Mail, Return Receipt Requested.
- 8 6. If you move, please send us your new address.

9 S:\Settlement\Vitesse.set\11-16-07 Final Revised Documents\12-19 CLEAN v9 - Class Action - Proof of Claim and Release.doc

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1 PAUL R. KIESEL (SBN 119854)
KIESEL BOUCHER LARSON LLP
2 8648 Wilshire Boulevard
Beverly Hills, California 90211-2910
3 Telephone: 310/854.4444
310/854.0812 (fax)

4 HORWITZ, HORWITZ & PARADIS
5 Attorneys at Law
PAUL O. PARADIS
6 28 West 44th Street, 16th Floor
New York, NY 10036
7 Telephone: 212/404-2200
212/404-2226 (fax)

8 Lead Counsel For Lead Plaintiff The Rodriguez Group
9

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION

13 LOUIS GRASSO, individually and on
14 behalf of all others similarly situated,

15 Plaintiff,

16 vs.

17 VITESSE SEMICONDUCTOR
CORPORATION, DR. VINCENT
18 CHAN, PH.D., JAMES A. COLE, ALEX
DALY, MOSHE GAVRIELOV, JOHN C.
19 LEWIS, DR. LOUIS TOMASETTA,
PH.D., YATIN MODY, EUGENE F.
20 HOVANEC and EDWARD ROGAS, JR.,

21 Defendants.
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) No. CV 06-02639

) CLASS ACTION

) SUMMARY NOTICE

) EXHIBIT A-3

1 TO: ALL PERSONS WHO PURCHASED OR ACQUIRED THE
2 COMMON STOCK OF VITESSE SEMICONDUCTOR
3 CORPORATION (“VITESSE”) BETWEEN JANUARY 27, 2003 AND
4 APRIL 27, 2006

5 YOU ARE HEREBY NOTIFIED, pursuant to an Order of the United States
6 District Court for the Central District of California, Western Division, that a hearing
7 will be held on March 17, 2008, at 10:00 a.m., before the Honorable Manuel L. Real,
8 at the United States Courthouse, 312 North Spring Street, Los Angeles, California, for
9 the purpose of determining (1) whether the proposed settlement of the claims in the
10 Litigation for the sum of \$10,200,000 in cash and 3,922,669 shares of Vitesse
11 common stock should be approved by the Court as fair, just, reasonable and adequate;
12 (2) whether, thereafter, this Litigation should be dismissed with prejudice as to the
13 settling defendants and as set forth in the Amended Stipulation of Settlement dated as
14 of October 5, 2007 (“Stipulation”); and (3) whether the Plan of Allocation is fair,
15 reasonable and adequate and therefore should be approved.

16 If you purchased or otherwise acquired Vitesse common stock during the period
17 January 27, 2003 through April 27, 2006, your rights may be affected by the
18 settlement of this Litigation. If you have not received a detailed Notice of Pendency
19 and Proposed Settlement of Class Action (“Notice”) and a copy of the Proof of Claim
20 and Release form, you may obtain copies by writing to *Vitesse Securities Litigation*,
21 c/o Berdon Claims Administration, LLC, P.O. Box 9014, Jericho, NY 11753-8914 or
22 on the internet at www.berdonclaims.com. If you are a Class Member, in order to
23 share in the distribution of the Net Settlement Fund, you must submit a Proof of Claim
24 and Release form post-marked no later than April 21, 2008, establishing that you are
25 entitled to recovery.

26 If you desire to be excluded from the Class, you must submit a Request for
27 Exclusion by February 25, 2008, in the manner and form explained in the detailed
28 Notice referred to above. All Members of the Class who have not requested exclusion

1 from the Class will be bound by any judgment entered in the Litigation pursuant to the
2 Stipulation.

3 Any objection to the settlement must be mailed or delivered such that it is
4 received by each of the following no later than February 25, 2008:

5 *Court:*

6 CLERK OF THE COURT
7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9 WESTERN DIVISION
10 312 North Spring Street
11 Los Angeles, CA 90012

12 *Lead Counsel For Lead Plaintiff The Rodriguez*
13 *Group*

14 HORWITZ, HORWITZ & PARADIS
15 Attorneys at Law
16 PAUL O. PARADIS
17 28 West 44th Street, 16th Floor
18 New York, NY 10036

19 *Counsel for Defendants:*

20 KATTEN MUCHIN ROSENMAN LLP
21 BRUCE G. VANYO
22 ANNISA D. SEYMOUR
23 MARISA WESTERVELT
24 2029 Century Park East, Suite 2600
25 Los Angeles, CA 90067-6042

26 Attorneys for Defendants Vincent Chan, James A.
27 Cole, Alex Daly, and John C. Lewis

28 O'MELVENY & MYERS LLP
29 SETH ARONSON
30 DAVID I. HURWITZ
31 MARC S. WILLIAMS
32 TRISTAN SORAH-REYES
33 400 South Hope Street
34 Suite 1060
35 Los Angeles, CA 90071-2899

36 Attorneys for Defendants Moshe Gavrielov,
37 Edward Rogas, Jr., and Vitesse Semiconductor
38 Corporation

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MICHAEL GREEN
VICE PRESIDENT, GENERAL COUNSEL
AND SECRETARY
VITESSE SEMICONDUCTOR CORPORATION
741 Calle Plano
Camarillo, CA 93012

Attorneys for Defendant Vitesse Semiconductor Corporation

HELLER EHRMAN LLP
SARA B. BRODY
HOWARD CARO
MADELEINE LOH
333 Bush Street, Suite 3100
San Francisco, CA 94104-2878

Attorney for Defendant Eugene F. Hovanec

MORRISON & FOERSTER, LLP
DAN MARMALEFSKY
JAMES P. MANISCALCO
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

Attorney for Defendant Louis R. Tomasetta

IRELL & MANELLA LLP
DAVID SIEGEL
DANIEL LEFLER
GLENN VANZURA
1800 Avenue of the Stars
Suite 900
Los Angeles, CA 90067-4276

Attorney for Defendant Yatin Mody

PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE REGARDING THIS NOTICE. If you have any questions about the settlement, you may contact Lead Counsel at the address listed above.

DATED: _____, 2008

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

TABLE A
Vitesse Semiconductor Corporation
Settlement Analysis of Alleged Inflation January 27, 2003 Through July 27, 2006

Trade Date	Alleged Inflation	Trade Date	Alleged Inflation	Trade Date	Alleged Inflation
1/27/2003	0.571	3/27/2003	0.647	5/28/2003	0.843
1/28/2003	0.611	3/28/2003	0.631	5/29/2003	0.843
1/29/2003	0.623	3/31/2003	0.587	5/30/2003	0.843
1/30/2003	0.587	4/1/2003	0.598	6/2/2003	0.843
1/31/2003	0.568	4/2/2003	0.647	6/3/2003	0.843
2/3/2003	0.535	4/3/2003	0.647	6/4/2003	0.843
2/4/2003	0.538	4/4/2003	0.642	6/5/2003	0.843
2/5/2003	0.568	4/7/2003	0.705	6/6/2003	0.843
2/6/2003	0.568	4/8/2003	0.678	6/9/2003	0.843
2/7/2003	0.568	4/9/2003	0.669	6/10/2003	0.843
2/10/2003	0.562	4/10/2003	0.686	6/11/2003	0.843
2/11/2003	0.557	4/11/2003	0.697	6/12/2003	0.843
2/12/2003	0.551	4/14/2003	0.708	6/13/2003	0.843
2/13/2003	0.546	4/15/2003	0.705	6/16/2003	0.843
2/14/2003	0.554	4/16/2003	0.656	6/17/2003	0.843
2/18/2003	0.582	4/17/2003	0.658	6/18/2003	0.843
2/19/2003	0.604	4/21/2003	0.669	6/19/2003	0.843
2/20/2003	0.631	4/22/2003	0.741	6/20/2003	0.843
2/21/2003	0.623	4/23/2003	0.743	6/23/2003	0.843
2/24/2003	0.634	4/24/2003	0.787	6/24/2003	0.843
2/25/2003	0.634	4/25/2003	0.776	6/25/2003	0.843
2/26/2003	0.612	4/28/2003	0.812	6/26/2003	0.843
2/27/2003	0.617	4/29/2003	0.843	6/27/2003	0.843
2/28/2003	0.620	4/30/2003	0.843	6/30/2003	0.843
3/3/2003	0.612	5/1/2003	0.843	7/1/2003	0.843
3/4/2003	0.590	5/2/2003	0.843	7/2/2003	0.843
3/5/2003	0.582	5/5/2003	0.843	7/3/2003	0.843
3/6/2003	0.573	5/6/2003	0.843	7/7/2003	0.843
3/7/2003	0.587	5/7/2003	0.843	7/8/2003	0.843
3/10/2003	0.565	5/8/2003	0.843	7/9/2003	0.843
3/11/2003	0.551	5/9/2003	0.843	7/10/2003	0.843
3/12/2003	0.568	5/12/2003	0.843	7/11/2003	0.843
3/13/2003	0.623	5/13/2003	0.843	7/14/2003	0.843
3/14/2003	0.606	5/14/2003	0.843	7/15/2003	0.843
3/17/2003	0.656	5/15/2003	0.843	7/16/2003	0.843
3/18/2003	0.675	5/16/2003	0.843	7/17/2003	0.843
3/19/2003	0.678	5/19/2003	0.843	7/18/2003	0.843
3/20/2003	0.705	5/20/2003	0.843	7/21/2003	0.843
3/21/2003	0.680	5/21/2003	0.843	7/22/2003	0.843
3/24/2003	0.664	5/22/2003	0.843	7/23/2003	0.843
3/25/2003	0.675	5/23/2003	0.843	7/24/2003	0.843
3/26/2003	0.661	5/27/2003	0.843	7/25/2003	0.843

TABLE A
Vitesse Semiconductor Corporation
Settlement Analysis of Alleged Inflation January 27, 2003 Through July 27, 2006

Trade Date	Alleged Inflation	Trade Date	Alleged Inflation	Trade Date	Alleged Inflation
7/28/2003	0.843	9/25/2003	0.843	11/24/2003	0.843
7/29/2003	0.843	9/26/2003	0.843	11/25/2003	0.843
7/30/2003	0.843	9/29/2003	0.843	11/26/2003	0.843
7/31/2003	0.843	9/30/2003	0.843	11/28/2003	0.843
8/1/2003	0.843	10/1/2003	0.843	12/1/2003	0.843
8/4/2003	0.843	10/2/2003	0.843	12/2/2003	0.843
8/5/2003	0.843	10/3/2003	0.843	12/3/2003	0.843
8/6/2003	0.843	10/6/2003	0.843	12/4/2003	0.843
8/7/2003	0.843	10/7/2003	0.843	12/5/2003	0.843
8/8/2003	0.843	10/8/2003	0.843	12/8/2003	0.843
8/11/2003	0.843	10/9/2003	0.843	12/9/2003	0.843
8/12/2003	0.843	10/10/2003	0.843	12/10/2003	0.843
8/13/2003	0.843	10/13/2003	0.843	12/11/2003	0.843
8/14/2003	0.843	10/14/2003	0.843	12/12/2003	0.843
8/15/2003	0.843	10/15/2003	0.843	12/15/2003	0.843
8/18/2003	0.843	10/16/2003	0.843	12/16/2003	0.843
8/19/2003	0.843	10/17/2003	0.843	12/17/2003	0.843
8/20/2003	0.843	10/20/2003	0.843	12/18/2003	0.843
8/21/2003	0.843	10/21/2003	0.843	12/19/2003	0.843
8/22/2003	0.843	10/22/2003	0.843	12/22/2003	0.843
8/25/2003	0.843	10/23/2003	0.843	12/23/2003	0.843
8/26/2003	0.843	10/24/2003	0.843	12/24/2003	0.843
8/27/2003	0.843	10/27/2003	0.843	12/26/2003	0.843
8/28/2003	0.843	10/28/2003	0.843	12/29/2003	0.843
8/29/2003	0.843	10/29/2003	0.843	12/30/2003	0.843
9/2/2003	0.843	10/30/2003	0.843	12/31/2003	0.843
9/3/2003	0.843	10/31/2003	0.843	1/2/2004	0.843
9/4/2003	0.843	11/3/2003	0.843	1/5/2004	0.843
9/5/2003	0.843	11/4/2003	0.843	1/6/2004	0.843
9/8/2003	0.843	11/5/2003	0.843	1/7/2004	0.843
9/9/2003	0.843	11/6/2003	0.843	1/8/2004	0.843
9/10/2003	0.843	11/7/2003	0.843	1/9/2004	0.843
9/11/2003	0.843	11/10/2003	0.843	1/12/2004	0.843
9/12/2003	0.843	11/11/2003	0.843	1/13/2004	0.843
9/15/2003	0.843	11/12/2003	0.843	1/14/2004	0.843
9/16/2003	0.843	11/13/2003	0.843	1/15/2004	0.843
9/17/2003	0.843	11/14/2003	0.843	1/16/2004	0.843
9/18/2003	0.843	11/17/2003	0.843	1/20/2004	0.843
9/19/2003	0.843	11/18/2003	0.843	1/21/2004	0.843
9/22/2003	0.843	11/19/2003	0.843	1/22/2004	0.843
9/23/2003	0.843	11/20/2003	0.843	1/23/2004	0.843
9/24/2003	0.843	11/21/2003	0.843	1/26/2004	0.843

TABLE A
Vitesse Semiconductor Corporation
Settlement Analysis of Alleged Inflation January 27, 2003 Through July 27, 2006

Trade Date	Alleged Inflation	Trade Date	Alleged Inflation	Trade Date	Alleged Inflation
1/27/2004	0.843	3/26/2004	0.843	5/26/2004	0.843
1/28/2004	0.843	3/29/2004	0.843	5/27/2004	0.843
1/29/2004	0.843	3/30/2004	0.843	5/28/2004	0.843
1/30/2004	0.843	3/31/2004	0.843	6/1/2004	0.843
2/2/2004	0.843	4/1/2004	0.843	6/2/2004	0.843
2/3/2004	0.843	4/2/2004	0.843	6/3/2004	0.843
2/4/2004	0.843	4/5/2004	0.843	6/4/2004	0.843
2/5/2004	0.843	4/6/2004	0.843	6/7/2004	0.843
2/6/2004	0.843	4/7/2004	0.843	6/8/2004	0.843
2/9/2004	0.843	4/8/2004	0.843	6/9/2004	0.843
2/10/2004	0.843	4/12/2004	0.843	6/10/2004	0.843
2/11/2004	0.843	4/13/2004	0.843	6/14/2004	0.843
2/12/2004	0.843	4/14/2004	0.843	6/15/2004	0.843
2/13/2004	0.843	4/15/2004	0.843	6/16/2004	0.843
2/17/2004	0.843	4/16/2004	0.843	6/17/2004	0.843
2/18/2004	0.843	4/19/2004	0.843	6/18/2004	0.843
2/19/2004	0.843	4/20/2004	0.843	6/21/2004	0.843
2/20/2004	0.843	4/21/2004	0.843	6/22/2004	0.843
2/23/2004	0.843	4/22/2004	0.843	6/23/2004	0.843
2/24/2004	0.843	4/23/2004	0.843	6/24/2004	0.843
2/25/2004	0.843	4/26/2004	0.843	6/25/2004	0.843
2/26/2004	0.843	4/27/2004	0.843	6/28/2004	0.843
2/27/2004	0.843	4/28/2004	0.843	6/29/2004	0.843
3/1/2004	0.843	4/29/2004	0.843	6/30/2004	0.843
3/2/2004	0.843	4/30/2004	0.843	7/1/2004	0.843
3/3/2004	0.843	5/3/2004	0.843	7/2/2004	0.843
3/4/2004	0.843	5/4/2004	0.843	7/6/2004	0.843
3/5/2004	0.843	5/5/2004	0.843	7/7/2004	0.843
3/8/2004	0.843	5/6/2004	0.843	7/8/2004	0.843
3/9/2004	0.843	5/7/2004	0.843	7/9/2004	0.843
3/10/2004	0.843	5/10/2004	0.843	7/12/2004	0.843
3/11/2004	0.843	5/11/2004	0.843	7/13/2004	0.843
3/12/2004	0.843	5/12/2004	0.843	7/14/2004	0.843
3/15/2004	0.843	5/13/2004	0.843	7/15/2004	0.843
3/16/2004	0.843	5/14/2004	0.843	7/16/2004	0.843
3/17/2004	0.843	5/17/2004	0.843	7/19/2004	0.843
3/18/2004	0.843	5/18/2004	0.843	7/20/2004	0.843
3/19/2004	0.843	5/19/2004	0.843	7/21/2004	0.843
3/22/2004	0.843	5/20/2004	0.843	7/22/2004	0.843
3/23/2004	0.843	5/21/2004	0.843	7/23/2004	0.741
3/24/2004	0.843	5/24/2004	0.843	7/26/2004	0.669
3/25/2004	0.843	5/25/2004	0.843	7/27/2004	0.689

TABLE A
Vitesse Semiconductor Corporation
Settlement Analysis of Alleged Inflation January 27, 2003 Through July 27, 2006

Trade Date	Alleged Inflation	Trade Date	Alleged Inflation	Trade Date	Alleged Inflation
7/28/2004	0.680	9/27/2004	0.713	11/24/2004	0.843
7/29/2004	0.724	9/28/2004	0.716	11/26/2004	0.843
7/30/2004	0.768	9/29/2004	0.724	11/29/2004	0.843
8/2/2004	0.738	9/30/2004	0.749	11/30/2004	0.843
8/3/2004	0.686	10/1/2004	0.787	12/1/2004	0.843
8/4/2004	0.680	10/4/2004	0.741	12/2/2004	0.843
8/5/2004	0.669	10/5/2004	0.741	12/3/2004	0.843
8/6/2004	0.653	10/6/2004	0.746	12/6/2004	0.843
8/9/2004	0.653	10/7/2004	0.743	12/7/2004	0.843
8/10/2004	0.653	10/8/2004	0.697	12/8/2004	0.843
8/11/2004	0.584	10/11/2004	0.713	12/9/2004	0.843
8/12/2004	0.571	10/12/2004	0.694	12/10/2004	0.843
8/13/2004	0.601	10/13/2004	0.702	12/13/2004	0.843
8/16/2004	0.612	10/14/2004	0.683	12/14/2004	0.843
8/17/2004	0.628	10/15/2004	0.683	12/15/2004	0.843
8/18/2004	0.656	10/18/2004	0.675	12/16/2004	0.843
8/19/2004	0.647	10/19/2004	0.667	12/17/2004	0.843
8/20/2004	0.713	10/20/2004	0.702	12/20/2004	0.843
8/23/2004	0.730	10/21/2004	0.765	12/21/2004	0.843
8/24/2004	0.724	10/22/2004	0.749	12/22/2004	0.843
8/25/2004	0.719	10/25/2004	0.741	12/23/2004	0.843
8/26/2004	0.694	10/26/2004	0.700	12/27/2004	0.843
8/27/2004	0.702	10/27/2004	0.708	12/28/2004	0.843
8/30/2004	0.686	10/28/2004	0.743	12/29/2004	0.843
8/31/2004	0.691	10/29/2004	0.746	12/30/2004	0.843
9/1/2004	0.713	11/1/2004	0.730	12/31/2004	0.843
9/2/2004	0.705	11/2/2004	0.727	1/3/2005	0.843
9/3/2004	0.678	11/3/2004	0.746	1/4/2005	0.843
9/7/2004	0.691	11/4/2004	0.760	1/5/2005	0.843
9/8/2004	0.683	11/5/2004	0.787	1/6/2005	0.843
9/9/2004	0.760	11/8/2004	0.801	1/7/2005	0.843
9/10/2004	0.796	11/9/2004	0.785	1/10/2005	0.843
9/13/2004	0.806	11/10/2004	0.754	1/11/2005	0.843
9/14/2004	0.843	11/11/2004	0.790	1/12/2005	0.843
9/15/2004	0.809	11/12/2004	0.782	1/13/2005	0.843
9/16/2004	0.796	11/15/2004	0.843	1/14/2005	0.843
9/17/2004	0.801	11/16/2004	0.843	1/18/2005	0.843
9/20/2004	0.815	11/17/2004	0.843	1/19/2005	0.843
9/21/2004	0.831	11/18/2004	0.843	1/20/2005	0.843
9/22/2004	0.771	11/19/2004	0.843	1/21/2005	0.843
9/23/2004	0.774	11/22/2004	0.843	1/24/2005	0.843
9/24/2004	0.754	11/23/2004	0.843	1/25/2005	0.843

TABLE A
Vitesse Semiconductor Corporation
Settlement Analysis of Alleged Inflation January 27, 2003 Through July 27, 2006

Trade Date	Alleged Inflation	Trade Date	Alleged Inflation	Trade Date	Alleged Inflation
1/26/2005	0.823	3/29/2005	0.716	5/26/2005	0.689
1/27/2005	0.817	3/30/2005	0.741	5/27/2005	0.678
1/28/2005	0.804	3/31/2005	0.727	5/31/2005	0.686
1/31/2005	0.796	4/1/2005	0.716	6/1/2005	0.691
2/1/2005	0.806	4/4/2005	0.689	6/2/2005	0.689
2/2/2005	0.801	4/5/2005	0.664	6/3/2005	0.672
2/3/2005	0.757	4/6/2005	0.661	6/6/2005	0.653
2/4/2005	0.815	4/7/2005	0.680	6/7/2005	0.634
2/7/2005	0.823	4/8/2005	0.683	6/8/2005	0.620
2/8/2005	0.843	4/11/2005	0.664	6/9/2005	0.672
2/9/2005	0.843	4/12/2005	0.636	6/10/2005	0.650
2/10/2005	0.843	4/13/2005	0.617	6/13/2005	0.650
2/11/2005	0.843	4/14/2005	0.606	6/14/2005	0.669
2/14/2005	0.843	4/15/2005	0.573	6/15/2005	0.661
2/15/2005	0.843	4/18/2005	0.579	6/16/2005	0.664
2/16/2005	0.843	4/19/2005	0.642	6/17/2005	0.645
2/17/2005	0.843	4/20/2005	0.609	6/20/2005	0.631
2/18/2005	0.843	4/21/2005	0.647	6/21/2005	0.639
2/22/2005	0.843	4/22/2005	0.590	6/22/2005	0.636
2/23/2005	0.837	4/25/2005	0.584	6/23/2005	0.639
2/24/2005	0.843	4/26/2005	0.568	6/24/2005	0.625
2/25/2005	0.843	4/27/2005	0.562	6/27/2005	0.606
2/28/2005	0.837	4/28/2005	0.551	6/28/2005	0.606
3/1/2005	0.843	4/29/2005	0.568	6/29/2005	0.601
3/2/2005	0.834	5/2/2005	0.562	6/30/2005	0.571
3/3/2005	0.817	5/3/2005	0.549	7/1/2005	0.576
3/4/2005	0.823	5/4/2005	0.562	7/5/2005	0.606
3/7/2005	0.843	5/5/2005	0.590	7/6/2005	0.614
3/8/2005	0.837	5/6/2005	0.601	7/7/2005	0.612
3/9/2005	0.831	5/9/2005	0.609	7/8/2005	0.634
3/10/2005	0.843	5/10/2005	0.584	7/11/2005	0.656
3/11/2005	0.823	5/11/2005	0.587	7/12/2005	0.664
3/14/2005	0.817	5/12/2005	0.595	7/13/2005	0.656
3/15/2005	0.776	5/13/2005	0.595	7/14/2005	0.664
3/16/2005	0.768	5/16/2005	0.606	7/15/2005	0.667
3/17/2005	0.754	5/17/2005	0.623	7/18/2005	0.664
3/18/2005	0.721	5/18/2005	0.639	7/19/2005	0.705
3/21/2005	0.735	5/19/2005	0.642	7/20/2005	0.724
3/22/2005	0.724	5/20/2005	0.661	7/21/2005	0.686
3/23/2005	0.708	5/23/2005	0.694	7/22/2005	0.609
3/24/2005	0.730	5/24/2005	0.700	7/25/2005	0.606
3/28/2005	0.757	5/25/2005	0.678	7/26/2005	0.614

TABLE A
Vitesse Semiconductor Corporation
Settlement Analysis of Alleged Inflation January 27, 2003 Through July 27, 2006

Trade Date	Alleged Inflation	Trade Date	Alleged Inflation	Trade Date	Alleged Inflation
7/27/2005	0.620	9/26/2005	0.565	11/23/2005	0.535
7/28/2005	0.617	9/27/2005	0.527	11/25/2005	0.562
7/29/2005	0.609	9/28/2005	0.527	11/28/2005	0.584
8/1/2005	0.609	9/29/2005	0.507	11/29/2005	0.568
8/2/2005	0.617	9/30/2005	0.513	11/30/2005	0.582
8/3/2005	0.604	10/3/2005	0.461	12/1/2005	0.631
8/4/2005	0.579	10/4/2005	0.491	12/2/2005	0.658
8/5/2005	0.576	10/5/2005	0.480	12/5/2005	0.634
8/8/2005	0.579	10/6/2005	0.469	12/6/2005	0.623
8/9/2005	0.582	10/7/2005	0.464	12/7/2005	0.617
8/10/2005	0.576	10/10/2005	0.466	12/8/2005	0.614
8/11/2005	0.587	10/11/2005	0.469	12/9/2005	0.639
8/12/2005	0.579	10/12/2005	0.464	12/12/2005	0.628
8/15/2005	0.584	10/13/2005	0.480	12/13/2005	0.628
8/16/2005	0.576	10/14/2005	0.480	12/14/2005	0.620
8/17/2005	0.604	10/17/2005	0.480	12/15/2005	0.579
8/18/2005	0.593	10/18/2005	0.472	12/16/2005	0.579
8/19/2005	0.598	10/19/2005	0.475	12/19/2005	0.551
8/22/2005	0.606	10/20/2005	0.469	12/20/2005	0.551
8/23/2005	0.584	10/21/2005	0.472	12/21/2005	0.560
8/24/2005	0.584	10/24/2005	0.469	12/22/2005	0.565
8/25/2005	0.593	10/25/2005	0.477	12/23/2005	0.565
8/26/2005	0.587	10/26/2005	0.472	12/27/2005	0.538
8/29/2005	0.601	10/27/2005	0.450	12/28/2005	0.540
8/30/2005	0.595	10/28/2005	0.422	12/29/2005	0.532
8/31/2005	0.601	10/31/2005	0.450	12/30/2005	0.527
9/1/2005	0.604	11/1/2005	0.447	1/3/2006	0.562
9/2/2005	0.598	11/2/2005	0.469	1/4/2006	0.584
9/6/2005	0.617	11/3/2005	0.475	1/5/2006	0.642
9/7/2005	0.645	11/4/2005	0.464	1/6/2006	0.639
9/8/2005	0.650	11/7/2005	0.469	1/9/2006	0.617
9/9/2005	0.650	11/8/2005	0.469	1/10/2006	0.623
9/12/2005	0.639	11/9/2005	0.480	1/11/2006	0.653
9/13/2005	0.642	11/10/2005	0.483	1/12/2006	0.625
9/14/2005	0.634	11/11/2005	0.475	1/13/2006	0.609
9/15/2005	0.609	11/14/2005	0.472	1/17/2006	0.601
9/16/2005	0.620	11/15/2005	0.475	1/18/2006	0.612
9/19/2005	0.587	11/16/2005	0.477	1/19/2006	0.647
9/20/2005	0.584	11/17/2005	0.477	1/20/2006	0.604
9/21/2005	0.565	11/18/2005	0.505	1/23/2006	0.609
9/22/2005	0.560	11/21/2005	0.510	1/24/2006	0.752
9/23/2005	0.560	11/22/2005	0.505	1/25/2006	0.749

TABLE A
Vitesse Semiconductor Corporation
Settlement Analysis of Alleged Inflation January 27, 2003 Through July 27, 2006

Trade Date	Alleged Inflation	Trade Date	Alleged Inflation	Trade Date	Alleged Inflation
1/26/2006	0.749	3/28/2006	0.843	5/26/2006	0.000
1/27/2006	0.738	3/29/2006	0.843	5/30/2006	0.000
1/30/2006	0.730	3/30/2006	0.843	5/31/2006	0.000
1/31/2006	0.713	3/31/2006	0.843	6/1/2006	0.000
2/1/2006	0.752	4/3/2006	0.843	6/2/2006	0.000
2/2/2006	0.763	4/4/2006	0.843	6/5/2006	0.000
2/3/2006	0.765	4/5/2006	0.843	6/6/2006	0.000
2/6/2006	0.804	4/6/2006	0.843	6/7/2006	0.000
2/7/2006	0.760	4/7/2006	0.843	6/8/2006	0.000
2/8/2006	0.787	4/10/2006	0.843	6/9/2006	0.000
2/9/2006	0.843	4/11/2006	0.843	6/12/2006	0.000
2/10/2006	0.842	4/12/2006	0.843	6/13/2006	0.000
2/13/2006	0.839	4/13/2006	0.843	6/14/2006	0.000
2/14/2006	0.839	4/17/2006	0.843	6/15/2006	0.000
2/15/2006	0.843	4/18/2006	0.843	6/16/2006	0.000
2/16/2006	0.843	4/19/2006	0.184	6/19/2006	0.000
2/17/2006	0.843	4/20/2006	0.353	6/20/2006	0.000
2/21/2006	0.843	4/21/2006	0.348	6/21/2006	0.000
2/22/2006	0.843	4/24/2006	0.341	6/22/2006	0.000
2/23/2006	0.842	4/25/2006	0.351	6/23/2006	0.000
2/24/2006	0.834	4/26/2006	0.348	6/26/2006	0.000
2/27/2006	0.843	4/27/2006	0.000	6/27/2006	0.000
2/28/2006	0.843	4/28/2006	0.000	6/28/2006	0.000
3/1/2006	0.843	5/1/2006	0.000	6/29/2006	0.000
3/2/2006	0.843	5/2/2006	0.000	6/30/2006	0.000
3/3/2006	0.843	5/3/2006	0.000	7/3/2006	0.000
3/6/2006	0.843	5/4/2006	0.000	7/5/2006	0.000
3/7/2006	0.843	5/5/2006	0.000	7/6/2006	0.000
3/8/2006	0.843	5/8/2006	0.000	7/7/2006	0.000
3/9/2006	0.843	5/9/2006	0.000	7/10/2006	0.000
3/10/2006	0.843	5/10/2006	0.000	7/11/2006	0.000
3/13/2006	0.843	5/11/2006	0.000	7/12/2006	0.000
3/14/2006	0.843	5/12/2006	0.000	7/13/2006	0.000
3/15/2006	0.843	5/15/2006	0.000	7/14/2006	0.000
3/16/2006	0.843	5/16/2006	0.000	7/17/2006	0.000
3/17/2006	0.843	5/17/2006	0.000	7/18/2006	0.000
3/20/2006	0.843	5/18/2006	0.000	7/19/2006	0.000
3/21/2006	0.843	5/19/2006	0.000	7/20/2006	0.000
3/22/2006	0.843	5/22/2006	0.000	7/21/2006	0.000
3/23/2006	0.843	5/23/2006	0.000	7/24/2006	0.000
3/24/2006	0.843	5/24/2006	0.000		
3/27/2006	0.843	5/25/2006	0.000		