

**UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION**

DEFERRED PROSECUTION AGREEMENT

1. In connection with an investigation, the Division of Enforcement (“Division”) of the United States Securities and Exchange Commission (“Commission”) alleges that Bernard Thomas Marren (“Respondent”) aided and abetted violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Securities Exchange Act of 1934 and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder, by not timely and appropriately acting in response to information about the truth of public statements made by Uni-Pixel, Inc. (“Uni-Pixel”) between August 2012 and December 2013 (the “Relevant Period”) (collectively, the “Investigation”). Prior to a public enforcement action being brought by the Commission against him, without admitting or denying these allegations, Respondent has offered to accept responsibility for his conduct and to not contest or contradict the factual statements contained in Paragraph 6 herein in any future Commission enforcement action instituted against him in the event he breaches this Agreement. Accordingly, the Commission and the Respondent enter into this deferred prosecution agreement (“Agreement”) on the following terms and conditions:

ELIGIBILITY

2. The Respondent certifies that he has never been charged or found guilty of violating the federal securities laws or a party to a civil action or administrative proceeding concerning allegations or findings of violations of the federal securities laws.

TERM

3. The Respondent understands and agrees that the provisions of this Agreement are in full force and effect from March 3, 2016 to March 3, 2021 (“Deferred Period”), unless expressly stated otherwise.

COOPERATION

4. The Respondent agrees to cooperate fully and truthfully in the Investigation and any other related enforcement litigation or proceedings to which the Commission is a party (the “Proceedings”), regardless of the time period in which the cooperation is required. In addition, the Respondent agrees to cooperate fully and truthfully, when requested by the Division’s staff, in an official investigation or proceeding by any federal, state, or self-regulatory organization (“Other Proceedings”). The full, truthful, and continuing cooperation of the Respondent shall include, but not be limited to:

a. producing all non-privileged documents and other materials to the Commission as requested by the Division’s staff, wherever located, in the possession, custody, or control of the Respondent;

- b. appearing for interviews, at such times and places, as requested by the Division's staff;
- c. responding fully and truthfully to all inquiries, when requested to do so by the Division's staff, in connection with the Proceedings or Other Proceedings;
- d. testifying at trial and other judicial proceedings, when requested to do so by the Division's staff, in connection with the Proceedings or Other Proceedings;
- e. accepting service by mail or facsimile transmission of notices or subpoenas for documents or testimony at depositions, hearings, trials, or in connection with the Proceedings or Other Proceedings;
- f. appointing his undersigned attorney as agent to receive service of such notices and subpoenas;
- g. waiving the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, when requested to appear by the Division's staff; and
- h. entering into tolling agreements, when requested to do so by the Division's staff, during the period of cooperation.

STATUTE OF LIMITATIONS

5. The Respondent agrees that the running of any statute of limitations applicable to any Proceedings, including any sanctions or relief that may be imposed therein, is tolled and suspended during the Deferred Period.
- a. The Respondent and any of his attorneys or agents shall not include the Deferred Period in the calculation of the running of any statute of limitations or for any other time-related defense applicable to the Proceeding, including any sanctions or relief that may be imposed therein, in asserting or relying upon any such time-related defense.
 - b. This agreement shall not affect any applicable statute of limitations defense or any other time-related defense that may be available to Respondent before the commencement of the Deferred Period or be construed to revive a Proceeding that may be barred by any applicable statute of limitations or any other time-related defense before the commencement of the Deferred Period.
 - c. The running of any statute of limitations applicable to the Proceeding shall commence again after the end of the Deferred Period, unless there is an extension of the Deferred Period executed in writing by or on behalf of the parties hereto.
 - d. This agreement shall not be construed as an admission by the Commission relating to the applicability of any statute of limitations to the Proceeding, including any

sanctions or relief that may be imposed therein, or to the length of any limitations period that may apply, or to the applicability of any other time-related defense.

STATEMENT OF FACTS¹

6. If this case had gone to trial, the Commission would have presented evidence sufficient to prove, among other things, the following facts:

Introduction

a. Uni-Pixel is a Delaware corporation with its principal place of business in The Woodlands, Texas. Uni-Pixel, which purports to develop and sell display and touch screen technologies, has been a Commission-reporting company since 2004, and has its common stock quoted on the NASDAQ.

b. Marren, age 80, is a resident of Mountain View, California. In February 2005, Marren was appointed as a member of the Board of Directors for Uni-Pixel. From May 2008 through May 2015, Marren served as Chairman of Uni-Pixel's Board of Directors. In May 2015, Marren resigned as Chairman of Uni-Pixel's Board; however, he continued to serve as a member of Uni-Pixel's Board.

c. In addition to serving on Uni-Pixel's Board:

i. From 1972 to 1976, Marren was the President and CEO of a technology company that manufactured integrated circuits. During that time, the company had its common stock quoted on a national exchange and filed reports with the Commission.

ii. From 1977 to 1996, Marren was the Founder and President of a technology company that distributed computer workstations, servers, and software. From 1990 through 1997, Marren served as the company's Vice Chairman of the Board of Directors. Beginning in 1983, the company had its common stock quoted on a national exchange and filed reports with the Commission.

iii. From 1998 to 2013, Marren was the President and CEO of a technology company that manufactured semiconductor and monitor chips. During that time, the company had its common stock quoted on a national exchange and filed reports with the Commission.

d. Based on his experience of over forty years serving as an officer and director for several public companies that filed reports with the Commission, including Uni-Pixel, Marren understood the legal requirements for disclosures contained in those reports and in documents furnished to the Commission, such as press releases furnished

¹ The facts set forth in this section are made pursuant to settlement negotiations associated with the violations alleged by the Division in Paragraph 1 of this Agreement and are not binding in any other legal proceeding or on any other person or entity.

as attachments to the Commission's Forms 8-K. Specifically, he understood that the disclosures contained in these documents could not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, to not be misleading.

e. Marren testified in the Investigation. During Marren's testimony, he testified that: (i) Uni-Pixel's CEO was "basically out of control on [company] press releases;" and (ii) despite repeatedly instructing Uni-Pixel's CEO to stop issuing press releases containing false and/or misleading information, he took no affirmative steps to implement any oversight of outgoing press releases or correct misleading press releases after their issuance. Example press releases are discussed below:

Press Release #1

f. On July 24, 2012, Uni-Pixel issued a press release announcing that it had achieved "production qualification" with a manufacturing and distribution partner ("Partner A") for Diamond Guard – a product Uni-Pixel touted as being a hard coat film designed as a cover glass replacement or protective cover film for mobile and display devices ("Press Release #1"). Uni-Pixel's then CEO claimed in Press Release #1 that achieving "production qualification" represented a "large-volume certification" that allowed Uni-Pixel to "begin widespread commercialization" of Diamond Guard. Press Release #1 was furnished to the Commission as an attachment to Form 8-K filed on July 24, 2012.

g. Marren was aware of Press Release #1 because he forwarded it to several third parties on or about July 24, 2012.

h. On August 15, 2012, he attended a meeting of Uni-Pixel's board of directors, at which Uni-Pixel's CEO stated that the company was still experiencing difficulty with getting its Diamond Guard product "qualified;" in other words, the product was not ready to be manufactured in commercial quantities for end-consumer use.

i. Soon thereafter, Marren traveled to Partner A's place of business and discussed the issue with Partner A's general manager, who confirmed the statements that Uni-Pixel's CEO made to the Uni-Pixel Board.

j. Based on the information Marren learned from Uni-Pixel's CEO at the August board meeting, which was corroborated by statements made by the general manager at Partner A, Marren concluded that the statements in Press Release #1 regarding Partner A's "production qualification" were false and misleading because Diamond Guard was not "qualified" and capable of being manufactured in commercial quantities for end-consumer use.

Press Releases #2 & #3

k. On May 24, 2013, Marren attended a meeting of Uni-Pixel's board of directors at which the board discussed concerns raised by Uni-Pixel's Vice President of Manufacturing who believed that company press releases dated April 30, 2013 and May 20, 2013 materially misrepresented the company's continuous manufacturing capabilities. ("Press Release #2" and "Press Release #3," respectively).

l. As background, in addition to its Diamond Guard product, Uni-Pixel also publicly disclosed at least as early as October 2011 that it was developing technology that could manufacture on a "high-volume roll-to-roll or continuous flow manufacturing process" touch sensors to be used in electronic devices utilizing touch screen capability. On December 7, 2012, Uni-Pixel announced that it had entered into a "multi-million dollar preferred price and capacity license agreement" with an undisclosed "PC maker" to develop and introduce products that feature Uni-Pixel's touch sensor technology.

m. Press Release #2 claimed that Uni-Pixel had "begun shipping initial batches of sensors to [its] PC maker licensee. The initial shipment quantities on the production line started at fifty moving to hundreds and then thousands over the next several months." Press Release #2 also claimed that Uni-Pixel had "reached [its] target production equipment capacity of 60,000 square feet per month." In reality, however, none of the fifty sensors initially shipped to the PC maker were produced by Uni-Pixel's high-volume production line, but were manually manufactured from beakers in a lab. Press Release #2 was furnished to the Commission as an attachment to Form 8-K filed on April 30, 2013.

n. Press Release #3 reiterated that Uni-Pixel had "recently reported shipping initial batches of sensors to its PC maker licensee from its Texas manufacturing facilities." Press Release #3 was furnished to the Commission as an attachment to Form 8-K filed on May 20, 2013.

o. At the May 24, 2013 board meeting, Uni-Pixel's board also discussed company disclosures and specifically the desire to ensure information was only being disclosed through company-authorized means to ensure the company was speaking through "one voice" and "a clear message would be sent to the public." As part of the meeting, the board discussed having two directors review press releases prior to release.

p. Marren did not investigate the Vice President of Manufacturing's concerns about the Press Releases #2 and #3. Marren also did not implement a policy or otherwise ensure that at least two members of the board reviewed press releases after May 24, 2013.

Press Release #4

q. On November 7, 2013, Uni-Pixel issued a press release announcing that it had received its first purchase order from the company's "lead PC [maker]" and expected to ship commercial product in the fourth quarter of 2013 ("Press Release #4"). Press

Release #4 was furnished to the Commission as an attachment to Form 8-K filed on November 7, 2013.

r. Marren learned soon thereafter that the purchase order only entailed 1,000 total units at a price of \$0.01 per unit – significantly lower than Uni-Pixel’s own manufacturing costs per unit. Marren expressed to Uni-Pixel’s CEO and others at the company that this was not a meaningful order because it reflected a “preposterous price” and resulted in a “fictitious” order. Despite believing that Press Release #4 was misleading because it implicitly claimed Uni-Pixel had received a purchase order with legitimate business terms, Marren took no action to correct this information.

s. In December 2013, Marren learned that Uni-Pixel’s senior management did not believe the company could fulfill the purchase order by the end of 2013. In response to learning this, Marren took affirmative steps to cause the dismissal of Uni-Pixel’s CEO on December 30, 2013.

PROHIBITIONS

7. During the Deferred Period, the Respondent understands and agrees to comply with the following prohibitions:

a. to refrain from violating, aiding or abetting, or causing any violation of the federal and state securities laws; and

b. to refrain from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of the Exchange Act.

UNDERTAKINGS

8. During the Deferred Period, the Respondent understands and agrees to perform the following undertakings:

a. to resign from all officer and director positions held with issuers that have a class of securities registered pursuant to Section 12 of the Exchange Act or that are required to file reports pursuant to Section 15(d) of the Exchange Act, and to provide written confirmation to the Division, on or March 3, 2016, of each such resignation, the date of resignation, the position resigned, and the issuer with whom the position was previously held;

b. to provide written notification to the Division, within five days, if he has been questioned, charged, or convicted of an offense by any federal, state, or local law enforcement organization or regulatory agency;

c. to provide written notification to the Division, within five days, if he has been questioned, a formal or informal complaint has been made against him, or any

disciplinary action has been taken against him by any self-regulatory organization or professional licensing board; and

d. to provide the Division with a written certification of compliance with the prohibitions and undertakings in this Agreement between forty-five and sixty days before the end of the Deferred Period.

PUBLIC STATEMENTS

9. After the Deferred Period begins, March 3, 2016, the Respondent agrees not to take any action or to make or permit any public statement through present or future attorneys, employees, agents, or other persons authorized to speak for him, except in connection with legal proceedings in which the Commission is not a party, denying, directly or indirectly, any aspect of this Agreement or creating the impression that the statements in Paragraph 6 of this Agreement are without factual basis. If it is determined by the Commission that a public statement by the Respondent or any related person contradicts in whole or in part this Agreement, at its sole discretion, the Commission may bring an enforcement action in accordance with Paragraphs 12 through 14.

10. Prior to Respondent issuing a press release concerning this Agreement, or prior to providing comments on any press release that Uni-Pixel may ask Respondent to review concerning this Agreement, the Respondent agrees to have the text of the release approved by the staff of the Division prior to issuance or prior to providing comments to Uni-Pixel.

SERVICE

11. The Respondent agrees to serve by hand delivery or by next-day mail all written notices and correspondence required by or related to this Agreement to the Associate Director, Enforcement for the SEC's Fort Worth Regional Office, at 801 Cherry Street, Suite 1900, Fort Worth, Texas 76102, (817) 978-1417, unless otherwise directed in writing by the staff of the Division.

VIOLATION OF AGREEMENT

12. The Respondent understands and agrees that it shall be a violation of this Agreement if he knowingly provides false or misleading information or materials in connection with the Proceedings or Other Proceedings. In the event of such misconduct, the Division will advise the Commission of the Respondent's misconduct and may make a criminal referral for providing false information (18 U.S.C. § 1001), perjury (18 U.S.C. § 1621), making false statements or declarations in court proceedings (18 U.S.C. § 1623), contempt (18 U.S.C. §§ 401-402) and/or obstructing justice (18 U.S.C. § 1503 *et seq.*).

13. The Respondent understands and agrees that it shall be a violation of this Agreement if he violates the federal securities laws after entering into this agreement. It is further understood and agreed that should the Division determine that the Respondent

has failed to comply with any term or condition of this Agreement, the Division will notify the Respondent or his counsel of this fact and provide an opportunity for the Respondent to make a submission consistent with the procedures set forth in the Securities Act of 1933 Release No. 5310. Under these circumstances, the Division may, in its sole discretion and not subject to judicial review, recommend to the Commission an enforcement action against the Respondent for any securities law violations, including, but not limited to, the substantive offenses relating to the Investigation. Nothing in this agreement limits the Division's discretion to recommend to the Commission an enforcement action against the Respondent for future violations of the federal securities laws, without notice, to protect the public interest.

14. The Respondent understands and agrees that in any future enforcement action resulting from his violation of the Agreement, any documents, statements, information, testimony, or evidence provided by him during the Proceedings or Other Proceedings, and any leads derived there from, may be used against him in future legal proceedings.

15. In the event he breaches this Agreement, the Respondent agrees not to contest or contradict in any future Commission enforcement action the factual statements contained in Paragraph 6 above as admissions pursuant to Federal Rule of Evidence 801(d)(2).

COMPLIANCE WITH AGREEMENT

16. Subject to the full, truthful, and continuing cooperation of the Respondent, as described in Paragraph 4, and compliance by Respondent with all obligations, prohibitions and undertakings in the Agreement during the Deferred Period, the Commission agrees not to bring any enforcement action or proceeding against the Respondent arising from the Investigation, after the conclusion of the Deferred Period.

17. The Respondent understands and agrees that this Agreement does not bind other federal, state or self-regulatory organizations, but the Commission may, at its discretion, issue a letter to these organizations detailing the fact, manner, and extent of his/her cooperation during the Proceedings or Other Proceedings, upon the written request of the Respondent.

18. The Respondent understands and agrees that the Agreement only provides protection against enforcement actions arising from the Investigation and does not relate to any other violations or any individual or entity other than the Respondent.

VOLUNTARY AGREEMENT

19. The Respondent's decision to enter into this Agreement is freely and voluntarily made and is not the result of force, threats, assurances, promises, or representations other than those contained in this Agreement.

20. The Respondent has read and understands this Agreement. Furthermore, he has reviewed all legal and factual aspects of this matter with his attorney and is fully satisfied

with his attorney's legal representation. The Respondent has thoroughly reviewed this Agreement with his attorney and has received satisfactory explanations concerning each paragraph of the Agreement. After conferring with his attorney and considering all available alternatives, the Respondent has made a knowing decision to enter into the Agreement.

ENTIRETY OF AGREEMENT

21. This Agreement constitutes the entire agreement between the Commission and the Respondent, and supersedes all prior understandings, if any, whether oral or written, relating to the subject matter herein.
22. This Agreement cannot be modified except in writing, signed by the Respondent and a representative of the Commission.
23. In the event an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring the Commission or the Respondent by virtue of the authorship of any of the provisions of the Agreement.

The signatories below acknowledge acceptance of the foregoing terms and conditions.

RESPONDENT

21 Oct. 2015
Date

Bernard Thomas Marren
Bernard Thomas Marren

The foregoing instrument was acknowledged before me this 21 day of Oct, 2015, by Bernard Thomas Marren, who he is a personally known to me or who has produced a valid driver's license as identification and who did take an oath.

[Signature]

Notary Public

State: California

Commission number: 1978149

Commission expiration: May 13, 2016

RESPONDENT'S COUNSEL

Approved as to form:



10/26/15
Date

[Signature]
Stephen J. Korotash
Morgan, Lewis & Bockius LLP
1717 Main Street, Suite 3200
Dallas, TX 75201
(214) 466-4114

SECURITIES AND EXCHANGE COMMISSION
DIVISION OF ENFORCEMENT

March 3, 2016
Date

[Signature]
David L. Peavler
Associate Regional Director