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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 SANTA CLARA COUNTY

M. Rosales

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14 109CV159469

11 **ROBERT VARRENTI**, individually and on  
12 behalf of all others similarly situated,

13 Plaintiff,

14 v.

15 **ROBERT DICKINSON, EDWARD ROSS,**  
16 **JOHN SPRAGUE, DAVID WITTRICK,**  
17 **DAVID SEAR, JON CASTOR, JOHN**  
18 **FICHTHORN, J. MICHAEL GULLARD,**  
19 **KENNETH POTASHNER, CALIFORNIA**  
20 **MICRO DEVICES CORPORATION, ON**  
**SEMICONDUCTOR CORPORATION, and**  
**PAC-10 ACQUISITION CORPORATION,**

21 Defendants.

109CV159469

**CIVIL ACTION**

**CLASS ACTION COMPLAINT**

22  
23 Plaintiff, by his attorneys, alleges upon information and belief, except for his own acts,  
24 which are alleged on knowledge, as follows:

25 1. Plaintiff brings this action on behalf of the public stockholders of California Micro  
26 Devices Corporation ("CMD" or the "Company") against Defendants, CMD and its Board of  
27 Directors seeking equitable relief for their breaches of fiduciary duty and other violations of state  
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**FAXED**

1 law arising out of a proposed transaction in which Defendants ON Semiconductor Corporation and  
2 Pac-10 Acquisition Corporation (collectively "ON Semiconductor") seek to acquire all of the  
3 outstanding shares of the Company through a cash tender offer by means of an unfair process and  
4 for an unfair price of \$4.70 per share (the "Proposed Transaction"). The Proposed Transaction is  
5 valued at approximately \$108 million.

6 **PARTIES**

7  
8 2. Plaintiff is, and has been at all relevant times, the owner of shares of common stock  
9 of CMD.

10 3. CMD is a corporation organized and existing under the laws of the State of  
11 Delaware. It maintains its principal corporate offices at 490 N. McCarthy Blvd., No. 100, Milpitas,  
12 CA 95035-5112, and designs and sells application specific circuit protection devices and display  
13 electronics devices. Its products include electromagnetic interference (EMI) filters with  
14 electrostatic discharge (ESD) protection for mobile handsets for specific applications, including  
15 display interfaces, imager interfaces, speaker, headphone and microphone interfaces, smart card  
16 interfaces, and high speed serial data interfaces. The Company's products also comprise ESD  
17 protection devices for mobile handsets, which provide ESD protection for various applications,  
18 including high speed serial data interfaces. In addition, the Company offers standard ESD  
19 protection devices for personal computers that provide protection for various standard data  
20 interfaces found on desktop and notebook computers, as well as for keyboard and battery terminals,  
21 and user interface devices.  
22

23  
24 4. Defendant Robert Dickinson ("Dickinson") has been the President, Chief Executive  
25 Officer, and a director of the Company since 2001.

26 5. Defendant Edward Ross ("Ross") has been Chairman of the Board of the Company  
27 since 2009 and a director of the Company since 2002.  
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6. Defendant John Sprague (“Sprague”) has been a director of the Company since 1996.

7. Defendant David Wittrock (“Wittrock”) has been a director of the Company since 2003.

8. Defendant David Sear (“Sear”) has been a director of the Company since 2003.

9. Defendant Jon Castor (“Castor”) has been a director of the Company since 2009.

10. Defendant John Fichthorn (“Fichthorn”) has been a director of the Company since 2009.

11. Defendant J. Michael Gullard (“Gullard”) has been a director of the Company since 2009.

12. Defendant Kenneth Potashner (“Potashner”) has been a director of the Company since 2009.

13. Defendants referenced in ¶¶ 4 through 12 are collectively referred to as Individual Defendants and/or the CMD Board. The Individual Defendants as officers and/or directors of CMD, have a fiduciary relationship with Plaintiff and other public shareholders of CMD and owe them the highest obligations of good faith, fair dealing, loyalty and due care.

14. Defendant ON Semiconductor Corporation is a Delaware Corporation that offers power, analog, digital signal processing, mixed signal, logic, data management semiconductors, memory, and standard component devices worldwide.

15. Defendant Pac-10 Acquisition Corporation is a Delaware Corporation wholly owned by ON Semiconductor Corporation that was created for the purposes of effectuating the Proposed Transaction.

**INDIVIDUAL DEFENDANTS’ FIDUCIARY DUTIES**

1           16. By reason of Individual Defendants' positions with the Company as officers and/or  
2 Directors, they are in a fiduciary relationship with Plaintiff and the other public shareholders of  
3 CMD and owe them, as well as the Company, a duty of highest good faith, fair dealing, loyalty and  
4 full, candid and adequate disclosure, as well as a duty to maximize shareholder value.

5           17. Where the officers and/or Directors of a publicly traded corporation undertake a  
6 transaction that will result in either: (i) a change in corporate control; (ii) a break up of the  
7 corporation's assets; or (iii) sale of the corporation, the Directors have an affirmative fiduciary  
8 obligation to obtain the highest value reasonably available for the corporation's shareholders, and if  
9 such transaction will result in a change of corporate control, the shareholders are entitled to receive  
10 a significant premium. To diligently comply with their fiduciary duties, the Directors and/or  
11 officers may not take any action that:

- 13                   (a) adversely affects the value provided to the corporation's shareholders;
- 14                   (b) favors themselves or will discourage or inhibit alternative offers to purchase  
15 control of the corporation or its assets;
- 16                   (c) contractually prohibits them from complying with their fiduciary duties;
- 17                   (d) will otherwise adversely affect their duty to search and secure the best value  
18 reasonably available under the circumstances for the corporation's shareholders; and/or  
19                   (e) will provide the Directors and/or officers with preferential treatment at the  
20 expense of, or separate from, the public shareholders.

22           18. In accordance with their duties of loyalty and good faith, the Individual Defendants,  
23 as Directors and/or officers of CMD, are obligated to refrain from:

- 25                   (a) participating in any transaction where the Directors or officers' loyalties are  
26 divided;

1 (b) participating in any transaction where the Directors or officers receive, or are  
2 entitled to receive, a personal financial benefit not equally shared by the public shareholders of the  
3 corporation; and/or

4 (c) unjustly enriching themselves at the expense or to the detriment of the public  
5 shareholders.

6 19. Plaintiff alleges herein that the Individual Defendants, separately and together, in  
7 connection with the Proposed Transaction are knowingly or recklessly violating their fiduciary  
8 duties, including their duties of loyalty, good faith and independence owed to Plaintiff and other  
9 public shareholders of CMD, or are aiding and abetting others in violating those duties.  
10

11 20. Defendants also owe the Company's stockholders a duty of candor, which includes  
12 the disclosure of all material facts concerning the Proposed Transaction and, particularly, the  
13 fairness of the price offered for the stockholders' equity interest. Defendants are knowingly or  
14 recklessly breaching their fiduciary duties of candor by failing to disclose all material information  
15 concerning the Proposed Transaction, and/or aiding and abetting other Defendants' breaches.  
16

17 **CONSPIRACY, AIDING AND ABETTING AND CONCERTED ACTION**

18 21. In committing the wrongful acts alleged herein, each of the Defendants has pursued,  
19 or joined in the pursuit of, a common course of conduct, and acted in concert with and conspired  
20 with one another, in furtherance of their common plan or design. In addition to the wrongful  
21 conduct herein alleged as giving rise to primary liability, the Defendants further aided and abetted  
22 and/or assisted each other in breach of their respective duties as herein alleged.  
23

24 22. During all relevant times hereto, the Defendants, and each of them, initiated a course  
25 of conduct which was designed to and did: (i) permit ON Semiconductor to attempt to eliminate the  
26 public shareholders' equity interest in CMD pursuant to a defective sales process, and (ii) permit  
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1 ON Semiconductor to buy the Company for an unfair price. In furtherance of this plan, conspiracy  
2 and course of conduct, Defendants, and each of them, took the actions as set forth herein.

3 23. Each of the Defendants herein aided and abetted and rendered substantial assistance  
4 in the wrongs complained of herein. In taking such actions, as particularized herein, to substantially  
5 assist the commission of the wrongdoing complained of, each Defendant acted with knowledge of  
6 the primary wrongdoing, substantially assisted the accomplishment of that wrongdoing, and was  
7 aware of his or her overall contribution to, and furtherance of, the wrongdoing. The Defendants'  
8 acts of aiding and abetting included, *inter alia*, the acts each of them are alleged to have committed  
9 in furtherance of the conspiracy, common enterprise and common course of conduct complained of  
10 herein.  
11

12 **CLASS ACTION ALLEGATIONS**

13 24. Plaintiff brings this action on its own behalf and as a class action on behalf of all  
14 owners of CMD common stock and their successors in interest, except Defendants and their  
15 affiliates (the "Class").  
16

17 25. This action is properly maintainable as a class action for the following reasons:

18 (a) the Class is so numerous that joinder of all members is impracticable. As of  
19 December 14, 2009, CMD has approximately 22.84 million shares outstanding.

20 (b) questions of law and fact are common to the Class, including, *inter alia*, the  
21 following:

22 (i) Have the Individual Defendants breached their fiduciary duties owed  
23 by them to Plaintiff and the others members of the Class;

24 (ii) Are the Individual Defendants, in connection with the Proposed  
25 Transaction of CMD by ON Semiconductor, pursuing a course of  
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conduct that does not maximize CMD's value in violation of their fiduciary duties;

(iii) Have the Individual Defendants misrepresented and omitted material facts in violation of their fiduciary duties owed by them to Plaintiff and the other members of the Class;

(iv) Have CMD and ON Semiconductor aided and abetted the Individual Defendants' breaches of fiduciary duty; and

(v) Is the Class entitled to injunctive relief or damages as a result of Defendants' wrongful conduct.

(c) Plaintiff is committed to prosecuting this action and have retained competent counsel experienced in litigation of this nature.

(d) Plaintiff's claims are typical of those of the other members of the Class.

(e) Plaintiff has no interests that are adverse to the Class.

(f) The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications for individual members of the Class and of establishing incompatible standards of conduct for Defendants.

(g) Conflicting adjudications for individual members of the Class might as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

#### SUBSTANTIVE ALLEGATIONS

26. CMD is poised for substantial growth. On October 29, 2009, the Company announced its results for the second quarter of 2010, which ended September 30, 2009. Among the financial highlights, the Company announced that:

- Revenue was \$11.1 million, exceeding guidance.

- 1 • Handset protection revenue grew 47 percent sequentially to \$5.3 million
- 2 • Bookings grew to \$13.1 million, up 17 percent from the first quarter.
- 3 • Operating cash flow increased by \$1.4 million compared to the first quarter.
- 4 • Shipments began for newly introduced Android phones.

5 27. In the press release announcing the results, Defendant Dickinson commented on the  
6 Company's strong quarter, stating:

7 "I am pleased to report that demand for our products in Q2 grew  
8 more rapidly than originally anticipated, led by our handset  
9 protection devices. In addition, we achieved positive operating  
10 cash flow a quarter earlier than expected as a result of improving  
11 business performance and careful management of working  
12 capital," said Robert. V. Dickinson, president and chief executive  
13 officer.

14 28. The Company also released several key new products during the second quarter,  
15 which will have a substantial positive impact on the Company's future and growth prospects. As  
16 stated in the press release, during the second quarter, the Company:

- 17 • Launched microSD filter for mobile handsets with lowest capacitance and 15kV ESD  
18 protection.
- 19 • Introduced low capacitance Praetorian® III filter for advanced multimedia and smart phones
- 20 • Added LuxGuard™ device for HBLEDs featuring 100V breakdown, industry's highest
- 21 • Expanded PicoGuard® family: array with 20kV protection and low capacitance array for  
22 high speed interfaces.

23 29. On December 8, 2009, the Company introduced another new product, the *PicoGuard*  
24 CM1227, an ultra low capacitance electrostatic discharge (ESD) device for the latest digital  
25 consumer and computer applications.



1           30.     Despite its recent strong performance and poise for growth, the Company agreed to  
2 enter into the Proposed Transaction. In a press release dated December 14, 2009, the Company  
3 announced that it had entered into a merger agreement with ON Semiconductor, stating:

4           PHOENIX & MILPITAS, Calif.--(BUSINESS WIRE)--ON  
5 Semiconductor (Nasdaq:ONNN) and California Micro Devices  
6 (Nasdaq:CAMD) today announced the signing of a definitive merger  
7 agreement pursuant to which ON Semiconductor will acquire  
8 California Micro Devices (CMD) through a cash tender offer of \$4.70  
9 per share. With net cash, cash equivalents and short-term investments  
10 of approximately \$45 million at the end of November 2009, the  
11 transaction value of CMD represents an enterprise value of  
12 approximately \$63 million and an equity value of approximately \$108  
13 million, based on common stock outstanding and issued. The  
14 proposed transaction and related merger agreement have been  
15 approved by each company's board of directors.

16           "The acquisition of California Micro Devices will significantly  
17 strengthen our offering of application specific integrated passive  
18 (ASIP) devices to protect products in the wireless, computing and  
19 consumer electronics end-markets," said Keith Jackson, ON  
20 Semiconductor president and CEO. "In addition, CMD's expertise in  
21 protection solutions for the high brightness LED (HBLED) market, as  
22 well as their strengths in LC-based EMI (electromagnetic  
23 interference) filtering and low capacitance ESD (electrostatic  
24 discharge) protection, complement our existing portfolio of protection  
25 and lighting solutions. With technology and process development  
26 expertise in ESD and EMI protection, CMD is highly differentiated in  
27 the marketplace – as demonstrated by their strong relationships with  
28 leading global customers across multiple large and growing  
applications. Combined with ON Semiconductor's global sales  
channel footprint and effective channels of distribution, we expect to  
be able to support a broader and deeper penetration of CMD's overall  
product portfolio with market-leading customers. This should enable  
us to accelerate revenue growth for CMD's products and increase  
market share. We also believe CMD's products and operations will  
benefit from ON Semiconductor's world-class manufacturing  
capabilities."

31.     Given the Company's recent performance and future prospects, the consideration  
shareholders are to receive is inadequate. Further, at least one Wall Street analyst had a price target  
of \$6.00 per share before the Proposed Transaction was announced. Accordingly, ON  
Semiconductor is picking up CMD at the most opportune time, at a time when CMD is poised for  
growth and its stock price is trading at a huge discount to its intrinsic value.

1           32.     In addition, on December 15, 2009, the Company filed a Form 8-K with the United  
2 States Securities and Exchange Commission (“SEC”) wherein it disclosed the operating Agreement  
3 and Plan of Merger for the Proposed Transaction (the “Merger Agreement”). As part of the Merger  
4 Agreement, Defendants agreed to certain onerous and preclusive deal protection devices that  
5 operate conjunctively to make the Proposed Transaction a *fait d’accompli* and ensure that no  
6 competing offers will emerge for the Company.

7           33.     By way of example, §6.1(a) of the Merger Agreement includes a “no solicitation”  
8 provision barring the Board and any Company personnel from attempting to procure a price in  
9 excess of the amount offered by ON Semiconductor. This section also demands that the Company  
10 terminate any and all prior or on-going discussions with other potential suitors. Despite the fact that  
11 they have locked up the Company and bound it to not solicit alternative bids, the Merger Agreement  
12 provides other ways that guarantee the only suitor will be ON Semiconductor.

13           34.     Pursuant to §6.1 of the Merger Agreement, should an unsolicited bidder arrive on the  
14 scene, the Company must notify ON Semiconductor of the bidder’s offer. Thereafter, should the  
15 Board determine that the unsolicited offer is superior, ON Semiconductor is granted five business  
16 days as a “last look” to amend the terms of the Merger Agreement to make a counter-offer that only  
17 needs to be at least as favorable to the Company’s shareholders as the unsolicited offer so that the  
18 competing bid is no longer considered a superior proposal. ON Semiconductor is able to match the  
19 unsolicited offer because it is granted unfettered access to the unsolicited offer, in its entirety,  
20 eliminating any leverage that the Company has in receiving the unsolicited offer.

21           35.     In other words, the Merger Agreement gives ON Semiconductor access to any rival  
22 bidder’s information and allows ON Semiconductor a free right to top any superior offer.  
23 Accordingly, no rival bidder is likely to emerge and act as a stalking horse for ON Semiconductor,  
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1 because the Merger Agreement unfairly assures that any "auction" will favor ON Semiconductor  
2 and piggy-back upon the due diligence of the foreclosed second bidder.

3 36. In addition, should the other bidder come unsolicited and overcome the "last look,"  
4 the Merger Agreement provides that a termination fee of \$3,475,000 million must be paid to ON  
5 Semiconductor by CMD if the Company decides to pursue said other offer, thereby essentially  
6 requiring that the alternate bidder agree to pay a naked premium for the right to provide the  
7 shareholders with a superior offer.  
8

9 37. Finally, ON Semiconductor is also the beneficiary of a "Top-Up" provision that  
10 ensures that ON Semiconductor gains the shares necessary to effectuate a short-form merger.  
11 Pursuant to the Merger Agreement, if ON Semiconductor receives 90% of the shares outstanding  
12 through its tender offer, it can effect a short-form merger. In the event ON Semiconductor fails to  
13 acquire the 90% required, the Merger Agreement also contains a "Top-Up" provision that grants  
14 ON Semiconductor an option to purchase additional shares from the Company in order to reach the  
15 90% threshold required to effectuate a short-form merger. The "Top-Up" provision essentially  
16 renders the tender offer a *fait accompli* and eliminates the possibility that any alternate bidder can  
17 mount a serious challenge to ON Semiconductor's first-in position.  
18

19 38. Ultimately, the "no solicitation" clause and the "last look" provision coupled with  
20 the termination fee illegally restrain the Company's ability to solicit or engage in negotiations with  
21 any third party regarding a proposal to acquire all or a significant interest in the Company. The  
22 circumstances under which the Board may respond to an unsolicited written bona fide proposal for  
23 an alternative acquisition that constitutes or would reasonably be expected to constitute a superior  
24 proposal are too narrowly circumscribed to provide an effective "fiduciary out" under the  
25 circumstances. Likewise, these provisions, coupled with the "Top-Up" provision, also foreclose  
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1 any likely alternate bidder from providing the needed market check of ON Semiconductor's  
2 inadequate offer price.

3 39. Accordingly, Plaintiff seeks injunctive and other equitable relief to prevent the  
4 irreparable injury that Company shareholders will continue to suffer absent judicial intervention.

5 **CLAIM FOR RELIEF**

6 **COUNT I**

7 **Breach of Fiduciary Duty – Failure to Maximize Shareholder Value**  
8 **(Against All Individual Defendants)**

9 40. Plaintiff repeats all previous allegations as if set forth in full herein.

10 41. As Directors of CMD, the Individual Defendants stand in a fiduciary relationship to  
11 Plaintiff and the other public stockholders of the Company and owe them the highest fiduciary  
12 obligations of loyalty and care. The Individual Defendants' recommendation of the Proposed  
13 Transaction will result in change of control of the Company which imposes heightened fiduciary  
14 responsibilities to maximize CMD's value for the benefit of the stockholders and requires enhanced  
15 scrutiny by the Court.

16 42. As discussed herein, the Individual Defendants have breached their fiduciary duties  
17 to CMD shareholders by failing to engage in an honest and fair sale process.

18 43. As a result of the Individual Defendants' breaches of their fiduciary duties, Plaintiff  
19 and the Class will suffer irreparable injury in that they have not and will not receive their fair  
20 portion of the value of CMD's assets and will be prevented from benefiting from a value-  
21 maximizing transaction.  
22

23 44. Unless enjoined by this Court, the Individual Defendants will continue to breach  
24 their fiduciary duties owed to Plaintiff and the Class, and may consummate the Proposed  
25 Transaction, to the irreparable harm of the Class.  
26

27 45. Plaintiff and the Class have no adequate remedy at law.  
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**COUNT II**

**Aiding and Abetting  
(Against CMD and ON Semiconductor)**

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3 46. Plaintiff repeats all previous allegations as if set forth in full herein.

4 47. As alleged in more detail above, CMD and ON Semiconductor are well aware that  
5 the Individual Defendants have not sought to obtain the best available transaction for the  
6 Company's public shareholders. Defendants CMD and ON Semiconductor aided and abetted the  
7 Individual Defendants' breaches of fiduciary duties.  
8

9 48. As a result, Plaintiff and the Class members are being harmed.

10 49. Plaintiff and the Class have no adequate remedy at law.

11 **WHEREFORE**, Plaintiff demands judgment against Defendants jointly and severally, as  
12 follows:

13 (A) declaring this action to be a class action and certifying Plaintiff as the Class  
14 representatives and their counsel as Class counsel;

15 (B) enjoining, preliminarily and permanently, the Proposed Transaction;

16 (C) in the event that the transaction is consummated prior to the entry of this  
17 Court's final judgment, rescinding it or awarding Plaintiff and the Class rescissory damages;

18 (D) directing that Defendants account to Plaintiff and the other members of the  
19 Class for all damages caused by them and account for all profits and any special benefits obtained  
20 as a result of their breaches of their fiduciary duties;  
21

22 (E) awarding Plaintiff the costs of this action, including a reasonable allowance  
23 for the fees and expenses of Plaintiff's attorneys and experts; and  
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25 (F) granting Plaintiff and the other members of the Class such further relief as the  
26 Court deems just and proper.  
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DATED: December 16, 2009

**LEVI & KORSINSKY, LLP**



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