



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

HARINATH NAMPALLY,)
individually and on behalf of all others)
similarly situated,)

Plaintiff,) C.A. No.:

v.)

DINESH PALIWAL, ADRIANE) CLASS ACTION

BROWN, JOHN DIERCKSEN, ANN)

MCLAUGHLIN KOROLOGOS,)

EDWARD MEYER, ROBERT NAIL,)

AVI REICHENTAL, KENNETH)

REISS, HELLENE RUNTAGH,)

FRANK SKLARSKY, and GARY)

STEEL,)

Defendants.)

**VERIFIED CLASS ACTION COMPLAINT
FOR BREACH OF FIDUCIARY DUTY**

Plaintiff Harinath Nampally (“Plaintiff”), on behalf of himself and all others similarly situated, by and through his undersigned counsel, alleges the following upon information and belief, including the investigation of counsel and review of publicly available information, except as to those allegations pertaining to Plaintiff, which are alleged upon personal knowledge:

SUMMARY OF THE ACTION

1. This is a stockholder class action brought by Plaintiff on behalf of himself and all other similarly situated public stockholders of Harman International

Industries, Incorporated (“Harman” or the “Company”) against the Company’s Board of Directors (the “Board” or the “Individual Defendants”) for their breaches of fiduciary duties owed to Plaintiff and the Class (defined herein).

2. Headquartered in Stamford, Connecticut, Harman describes itself as a “leader in the design and engineering of connected products and solutions for automakers, consumers and enterprises worldwide, including connected car systems, audio and visual products, enterprise automation solutions and connected services.” Harman offers its products through its portfolio of well-known brands, including Harman/Kardon, Infinity, JBL, and Mark Levinson.

3. On November 14, 2016, Harman announced that it had entered into an agreement and plan of merger, dated as of November 14, 2016 (the “Merger Agreement”) with Korea-based Samsung Electronics Co., Ltd., through its subsidiaries Samsung Electronics America, Inc. and Silk Delaware, Inc. (“Merger Sub” and, collectively with Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc., “Samsung”). Pursuant to the Merger Agreement, Merger Sub will merge with and into Harman, with Harman surviving as a wholly-owned subsidiary of Samsung in a deal valued at approximately \$8 billion (the “Proposed Transaction”). As a result of the Proposed Transaction, Harman stockholders are anticipated to receive \$112.00 per share in cash in exchange for each share of the Company they own (the “Merger Consideration”).

4. The Proposed Transaction is the product of a flawed and unfair process in which the Board negotiated only with Samsung and deliberately chose not to contact a single other potentially-interested party or conduct a pre-signing market check to attempt to maximize stockholder value. Furthermore, the Board quickly forwent any negotiating leverage it had with Samsung by agreeing to enter into the restrictive exclusivity period.

5. As a result of the unfair process, the Proposed Transaction undervalues Harman and represents just a 7.5% premium to the Company's pre-announcement 52-week high. Based on the insufficient Merger Consideration, at least one large Harman stockholder (Atlantic Investment Management, holder of a 2.3% stake in the Company) has publicly declared the Proposed Transaction as undervalued and its intention to vote against it. Moreover, given the overall strength of the Company and its poise for future success, Samsung will acquire Harman at an unreasonably low price if the Proposed Transaction is permitted to close.

6. Compounding the failure to secure adequate consideration for the Company, the sales and negotiation process leading up to the execution of the Merger Agreement was fundamentally flawed. Specifically, pursuant to the Merger Agreement, Defendants agreed to: (i) a strict no-solicitation provision that prevents the Company from soliciting other potential acquirers or providing them

with pertinent confidential information; (ii) a notice provision that requires the Company to disclose confidential information about competing bids to Samsung within twenty-four hours; (iii) a provision that provides Samsung with the unfettered right to amend the Proposed Transaction in response to a competing proposal; and (iv) a termination and expense fee provision that requires the Company to pay Samsung \$240 million in order to accept an alternative, superior offer.

7. These provisions, particularly when considered collectively with the Board's inherent conflicts, substantially and improperly limit the Board's ability to act with respect to investigating and pursuing superior proposals and alternatives, including a sale of all or part of Harman.

8. Exacerbating their failure to engage in a fulsome value-maximizing sales process, the Board breached its fiduciary duty of candor when, on December 12, 2016, it caused to be filed with the United States Securities and Exchange Commission a materially deficient Preliminary Proxy Statement on Schedule 14A (the "Proxy"). The Proxy is materially incomplete in that it fails to provide adequate disclosure of all material information related to the Proposed Transaction. Of particular note, the Proxy does not disclose certain line items related to the Company's management-prepared projections including unlevered free cash flows or stock-based compensation. The Proxy also does not indicate which of the two

sets of projections provided (the “*Management Projections and Extrapolations*” and “*Sensitized Projections*”), in the eyes of Company management, best represent their view of the Company’s future financial prospects.

9. In pursuing the Proposed Transaction and agreeing to the inadequate Merger Consideration offered by Samsung, each Defendant has violated applicable law by directly breaching and/or aiding and abetting breaches of fiduciary duties of loyalty, good faith, and due care owed to Plaintiff and the putative class of Harman stockholders.

10. Accordingly, and for the reasons set forth in detail herein, Plaintiff seeks to enjoin defendants from taking any steps to consummate the Proposed Transaction or, in the event the Proposed Transaction is consummated, to recover damages resulting from the Individual Defendants’ violations of their fiduciary duties of loyalty, good faith, and due care.

THE PARTIES

11. Plaintiff is, and at all times relevant hereto, has been, a stockholder of the Company.

12. Non-Party Harman is a corporation organized and existing under the laws of Delaware, with principal executive offices located at 400 Atlantic Street, Suite 1500, Stamford, Connecticut 06901. Harman common stock is traded on the New York Stock Exchange under the ticker symbol “HAR.”

13. Defendant Dinesh Paliwal is the Chairman, President and Chief Executive Officer of the Company, having joined Harman in 2007.

14. Defendant Adriane Brown has been a director of the Company since 2013.

15. Defendant John Diercksen has been a director of the Company since 2013.

16. Defendant Ann McLaughlin Korologos has been a director of the Company since 1995. Defendant Korologos is the Lead Director of the Board.

17. Defendant Edward Meyer has been a director of the Company since 1990.

18. Defendant Robert Nail has been a director of the Company since 2015.

19. Defendant Avi Reichental has been a director of the Company since 2015.

20. Defendant Kenneth Reiss has been a director of the Company since 2008.

21. Defendant Hellene Runtagh has been a director of the Company since 2008.

22. Defendant Frank Sklarsky has been a director of the Company since 2012.

23. Defendant Gary Steel has been a director of the Company since 2007.

THE INDIVIDUAL DEFENDANTS' FIDUCIARY DUTIES

24. By reason of the Individual Defendants' positions with the Company as officers and/or directors, said individuals are in a fiduciary relationship with Plaintiff and the other stockholders of Harman and owe Plaintiff and the other members of the Class (defined herein) the duties of good faith, loyalty, and candor.

25. By virtue of their positions as directors and/or officers of Harman, the Individual Defendants, at all relevant times, had the power to control and influence, and did control and influence and cause Harman to engage in the practices complained of herein.

26. Each of the Individual Defendants is required to act in good faith, in the best interests of the Company's stockholders and with such care, including reasonable inquiry, as would be expected of an ordinarily prudent person. In a situation where the directors of a publicly traded company undertake a transaction that may result in a change in corporate control, the directors must take all steps reasonably required to maximize the value stockholders will receive rather than use a change of control to benefit themselves. To diligently comply with this duty, the directors of a corporation may not take any action that:

- a. adversely affects the value provided to the corporation's stockholders;

- b. contractually prohibits them from complying with or carrying out their fiduciary duties;
- c. discourages or inhibits alternative offers to purchase control of the corporation or its assets;
- d. will otherwise adversely affect their duty to search for and secure the best value reasonably available under the circumstances for the corporation's stockholders; or
- e. will provide the directors and/or officers with preferential treatment at the expense of, or separate from, the public stockholders.

27. Plaintiff alleges herein that the Individual Defendants, separately and together, in connection with the Proposed Transaction, violated duties owed to Plaintiff and the other stockholders of Harman, including their duties of loyalty, good faith, and due care, insofar as they, *inter alia*, failed to obtain the best price possible under the circumstances before entering into the Proposed Transaction, and engaged in self-dealing and obtained for themselves personal benefits, including personal financial benefits, not shared equally by Plaintiff or the other stockholders of Harman common stock.

CLASS ACTION ALLEGATIONS

28. Plaintiff brings this action pursuant to Court of Chancery Rule 23, individually and on behalf of the stockholders of Harman common stock (the

“Class”). The Class specifically excludes Defendants herein, and any person, firm, trust, corporation or other entity related to, or affiliated with, any of the Defendants.

29. This action is properly maintainable as a class action because:

a. The Class is so numerous that joinder of all members is impracticable.

According to the Merger Agreement, as of the close of business on November 10, 2016, there were approximately 69.7 million shares of Harman stock issued and outstanding. The actual number of public stockholders of Harman will be ascertained through discovery;

b. There are questions of law and fact that are common to the Class, including *inter alia*, the following:

i. whether the Individual Defendants have breached their fiduciary duties of loyalty and/or due care with respect to Plaintiff and the other members of the Class in connection with the Proposed Transaction;

ii. whether the Individual Defendants have breached their fiduciary duty to maximize value under the circumstances for the benefit of Plaintiff and the other members of the Class in connection with the Proposed Transaction; and

- iii. whether Plaintiff and the other members of the Class would suffer irreparable injury were the Proposed Transaction complained of herein consummated.
- c. Plaintiff is an adequate representative of the Class, has retained competent counsel experienced in litigation of this nature, and will fairly and adequately protect the interests of the Class;
- d. Plaintiff's claims are typical of the claims of the other members of the Class and Plaintiff does not have any interests adverse to the Class;
- e. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for the party opposing the Class; and
- f. Defendants have acted on grounds generally applicable to the Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

BACKGROUND OF THE COMPANY AND ITS POISE FOR GROWTH

30. According to Harman's most recent annual report filed with the SEC on August 11, 2016, the Company is "a leader in the design and engineering of

connected products and solutions for automakers, consumers and enterprises worldwide.” The Company operates through four core business segments.

31. *Connected Car* – Harman’s Connected Car segment “designs, manufactures and markets connected car systems for vehicle applications to be installed primarily as original equipment by automotive manufacturers.”

32. *Lifestyle Audio* – Harman’s Lifestyle Audio segment “designs, manufactures and markets car audio systems for vehicle applications to be installed primarily as original equipment by automotive manufacturers, as well as a wide range of consumer audio products including mid-to high-end loudspeakers and electronics, headphones, embedded audio products for consumer electronics and branded portable wireless speakers.”

33. *Professional Solutions* – Harman’s Professional Solutions segment “designs, manufactures and markets an extensive range of audio, lighting, video and control, and automation solutions for entertainment and enterprise applications, including live concerts and festivals, stadiums, airports, hotels and resorts, conference centers, educational institutions, command centers and houses of worship.”

34. *Connected Services* – Harman’s Connected Services segment “creates innovative software solutions that integrate design, mobility, cloud and analytics

and brings the benefits of the connected world to the automotive, retail, mobile, healthcare, media and consumer electronics markets.”

35. On August 4, 2016, the Company announced its financial results for the Fourth Quarter and Full Year ended June 30, 2016. Therein, the Company announced a 12% increase in net sales compared to the same quarter, prior year along with a 12% net sales increase for the entire year.

36. In the press release announcing the results, Individual Defendant Paliwal lauded the Company’s success while projecting much of the same for the Company’s future:

“In fiscal 2016, HARMAN delivered record revenue, EBITDA and earnings per share,” said Dinesh C. Paliwal, Chairman and CEO. “HARMAN’s intelligent, embedded connected car solutions, including unparalleled audio and sound management systems, led to a record-breaking automotive backlog of more than \$24 billion. Together with a rapidly growing consumer audio business and improving Professional Solutions business, HARMAN has a strong foundation for long-term growth.”

Paliwal continued, “In fiscal 2017, we will continue to leverage our comprehensive technology portfolio, including expanded cloud and analytics capabilities, to meet the growing demand for embedded software and services in the automotive, consumer and enterprise markets. We also presented a longer-term outlook that capitalizes on the opportunities in connected car, mobility and IoT. With an industry-leading automotive backlog and continued focus on disciplined execution, HARMAN is well positioned to deliver superior financial and operational performance for our customers and shareholders.”

37. Paliwal was similarly positive on the earnings call with analysts, driven by the Company's anticipated future growth:

As we look forward, we see significant growth opportunities across all the divisions. In the automotive space, the industry is experiencing an unprecedented social and technological transformation, fueled by increasing intelligent connectivity and supported by autonomous vehicles, electrification and urban mobility. The car is getting an upgrade as never seen before.

HARMAN is well positioned to capitalize on each of these trends. Let me remind you our portfolio of integrated technologies now include: embedded infotainment solutions ranging from display audio to an intelligent compute platform addressing entry, mid- and high-vehicle classes; enhanced telematics products and gateway solutions; industry-leading cybersecurity; and OTA products for all ECUs, whether HARMAN supplied or non-HARMAN supplied, superior automotive audio technologies like Individual Sound Zones, HALOsonic and Summit; Data analytics and backend software services to complement ADAS development in the industry and a number of innovations still in our pipeline.

We have the end-to-end value proposition that automakers are looking for. Building on our strong backlog of awarded business and track record of execution, we expect continued growth in our automotive revenue. At the same time, due to the staggered timing of various automotive program launches and roll-offs, we expect to see lower growth in 2018, followed by strong growth in 2019 and beyond. This is a cycle that is common in our business. We had experienced it before as recently as 2013 as shown on slide 14 of our presentation. We experienced accelerated growth for several years after the transition year in 2013.

In fiscal 2018, we will continue to ramp up new programs and make R&D investments both to deliver on the contracts we have won and to capitalize on the megatrends we discussed earlier. Longer term, we

are confident that we will see accelerated revenue expansion from our automotive backlog, higher margin automotive services and increasing market demand for connected car and autonomous driving technologies.

On top of that, there are additional reasons to be excited. With autonomous driving, the in-car audio experience or sound management becomes even more essential. With our record \$6.6 billion car audio backlog and continued growth in take rate, we expect car audio continue to lead the company in profitability and grow faster than the company average.

In addition, we have confidence in the turnaround of our Professional business. With all the actions we have taken, we are optimistic that we can return margins to historical levels over the medium term. Together, with the continued growth in our Consumer Audio business and increasing opportunities in Connected Services, we are squarely on the path towards achieving our goal of \$11 billion in revenue by 2021.

38. The Company's presentation slides painted a similar picture, with expected revenue and EBITDA growth of 7% and 10%, respectively, for fiscal 2017 driven by strong performances across all business segments:

FISCAL YEAR 2017 FORECAST CONTINUED PROFITABLE GROWTH

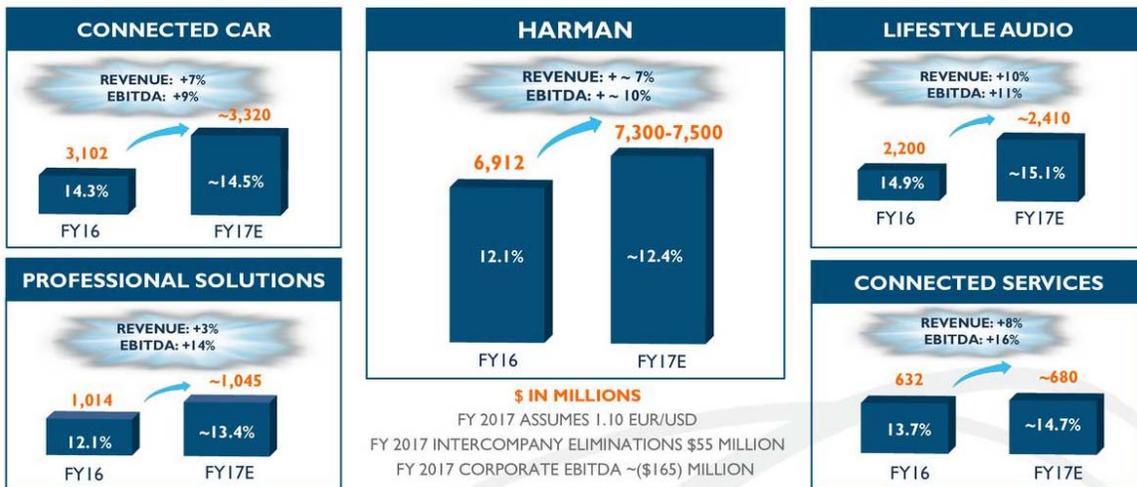


NOTE: EBITDA IS NON-GAAP MEASURE AND EXCLUDES RESTRUCTURING, ACQUISITION-RELATED ITEMS AND NON-RECURRING CHARGES

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FISCAL 2017 FORECAST DIVISIONAL BREAKOUT



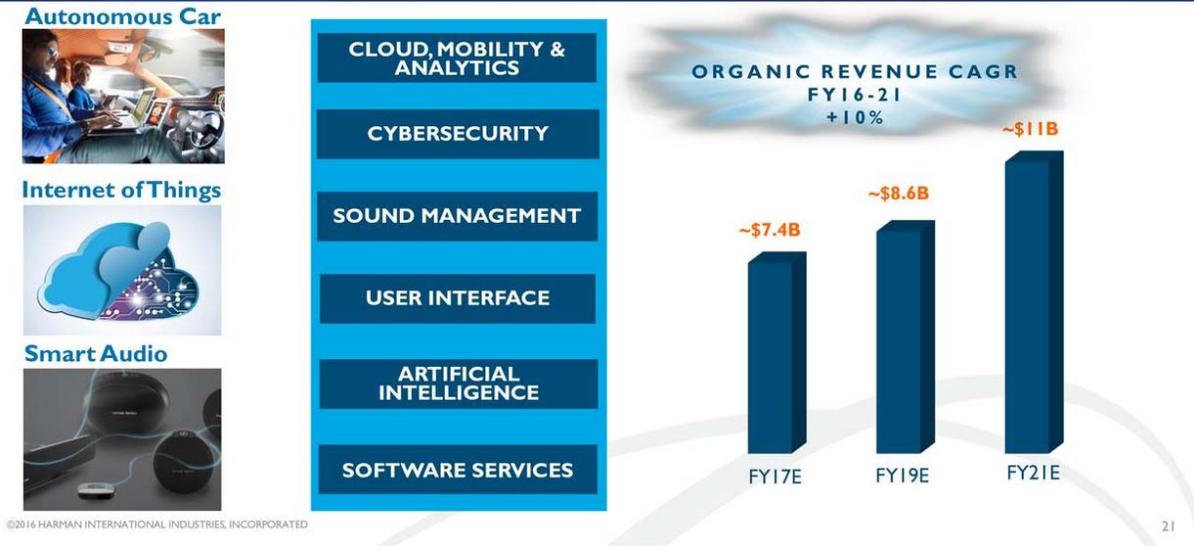
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LIFESTYLE AUDIO AND CONNECTED SERVICES REVENUE AND EBITDA RESTATED TO REFLECT AUDIO SERVICES RECLASSIFICATION FROM CONNECTED SERVICES TO LIFESTYLE AUDIO
NOTE: EBITDA IS NON-GAAP MEASURE AND EXCLUDES ACQUISITION-RELATED ITEMS, RESTRUCTURING AND NON-RECURRING CHARGES

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39. Most importantly, the Company illustrated a clear path to continued viability by capitalizing on its position at the forefront of technological changes:

MEGATRENDS AND GROWTH DRIVERS PATH TO \$11 BILLION IN REVENUE



40. The Company continued its upward trend when, on November 3, 2016, it reported financial results for the quarter ended September 30, 2016. On the earnings call with analysts, Individual Defendant Paliwal again touted the Company’s success and product portfolio, while also touching on the Company’s growth in China:

I am pleased to report that our fiscal year is off to a very good start, with solid results for the first quarter. Net sales increased 8% to \$1.8 billion. We expanded our operating margins and delivered a 15% year-over-year improvement in EBITDA. This puts our EBITDA margin at a company record of 12.9% and we achieved 27% year-over-year improvement in earnings per share.

I am particularly pleased with the strong results in our Lifestyle Audio division which posted 19% year-over-year revenue growth and 50% EBITDA growth. Our unmatched brand portfolio and product innovations are paying off.

* * *

With our innovation, we have been displacing several competitors over the last few years. As we continue to gain market share, the gap between HARMAN and its competitors has been widening at a faster pace. We have broken this down for you on page six of your slide deck.

If you quickly look at slide deck, you will see, since the first quarter of fiscal 2015, we have recognized over \$9 billion in automotive revenues. During the same period, we booked over \$13 billion of new awards. This means our awards are growing faster than our revenue, and our book to bill ratio is 1.4:1.

In our most profitable business, that is car audio and sound management, the awards grew even faster with a book to bill ratio of 2:1. Let me talk a little more about our recent wins in the car audio and sound management business.

Following a successful launch of the Revel brand in Lincoln vehicles, I'm pleased to announce the extension of our business with Ford. Under this long-term partnership, we will supply B&O PLAY branded car audio systems to Ford's vehicles cross car line globally.

* * *

Before I talk about divisions in more details, let me briefly discuss our rapid growth in China, which I am extremely proud of. You will recall in 2009, our revenue in China was less than \$50 million. Last year, our revenue reached \$800 million. That is 50% cumulative annual growth over the last seven years. This quarter, we grew our revenue in China over 40% and we have more than \$4 billion of automotive order backlog.

Needless to say, we have been taking market share left and right in China from the competition. We are growing our automotive business through imports and with the Chinese OEMs as well. We have a very strong foundation in China with more than 3,000 people and growing. We have two world-class manufacturing plants, multiple state-of-the-art research and development centers, engineering and design centers. China is an important long-term growth market. We are winning in

automotive and our iconic brands are boosting our consumer and professional growth.

* * *

In summary, we are off to a solid start to deliver on our fiscal 2017 targets. We achieved record EBITDA and record earnings per share in the quarter, added over \$2 billion of new automotive and software services awards, and continued to execute on our backlog successfully. We remain focused on innovation, execution, and driving cost leadership which have become hallmark of this company's success. And that is applying to all of our businesses.

41. Yet despite the Company's continued record-breaking performance and the fact that it now stands on the precipice of enjoying exponential growth as a leader in its expanding business segments and across emerging markets, the Individual Defendants determined to stunt any possible upside by selling to Samsung for the insufficient Merger Consideration.

THE FLAWED SALES PROCESS

42. As evidenced by the Proxy, the Board failed to make any earnest attempt to maximize stockholder value by engaging in a fulsome sales process. Instead, the Board negotiated with just one bidder – Samsung – inexplicably granting it an exclusivity period despite never performing a market check of the Company's true value.

43. According to the Proxy, Samsung made its initial overture to the Company in August 2016 when Samsung's President, Young Sohn, met a member

of the Company's management team at an industry conference and expressed an interest in collaborating with Harman.

44. Mr. Sohn was then directed to speak with Defendant Paliwal, with the two meeting in early September 2016 to discuss Samsung's interest in a potential acquisition of the Company.

45. The Board was not then-presently considering any sale of the Company, having discontinued negotiations with a potential strategic counterparty identified in the Proxy as "Company A" in January 2016. Prior to that point, the Company had entered into a mutual confidentiality agreement with Company A and, on December 17, 2015, Company A had conveyed to Harman a non-binding proposal to acquire the Company in a mixed cash and stock transaction valued at \$115 per share (or a 25.1% premium to the Company's trading price at that point). The Proxy is silent as to whether this confidentiality agreement, like the one executed by Samsung, contained a "standstill" provision.

46. Instead, according to the Proxy, during the summer and fall of 2016, the Board had authorized senior management to explore potentially separating the Company's businesses into two or more independent public companies. Additionally, at this time the Board authorized the engagement of a second financial advisor, Lazard Frères & Co. LLC ("Lazard"), presumably to protect against the potential conflicts of interest of Harman's current advisor, J.P. Morgan

Securities LLC (“JPM” and together with Lazard, the “Financial Advisors”). Each of Lazard and JPM served as Financial Advisors to the Company in connection with the Proposed Transaction and each separately opined on its fairness.

47. As stated in the Proxy, JPM was a “longtime advisor” to Harman, having previously advised the Company during its late-2015 negotiations with Company A. In the two years preceding the entry into the Merger Agreement, JPM also acted as a joint lead arranger and joint bookrunner on Harman’s syndicated facility, as a financial advisor to the Company in connection with its acquisition of Symphony Teleca in April 2015, and as joint bookrunner on offerings of debt securities by the Company, receiving aggregate fees of approximately \$11 million.

48. JPM also has an extensive history with Samsung, having acted as joint bookrunner on the initial public offering of Samsung SDS Co. in October 2014 (a \$1.1 billion IPO)¹, as joint global coordinator and joint book runner on the initial public offering of Cheil Industries, the de facto holding company of Samsung, in

¹ Joyce Lee, *Samsung SDS to Raise \$1.1 Billion in One of South Korea’s Biggest IPOs since 2010*, Reuters, Oct. 31, 2014, available at <http://www.reuters.com/article/us-samsung-sds-listing-ipo-idUSKBN0IK0N420141031>.

December 2014 (a \$1.3 billion IPO)², as financial advisor to Samsung on Samsung's disposal of equity interests in Samsung Techwin and Samsung Chemicals in June 2015 and as joint bookrunner on the \$1.97 billion initial public offering of Samsung Biologics in October 2016 (South Korea's second largest IPO ever). The Proxy reports that JPM received \$17 million in aggregate fees from Samsung and its subsidiaries during the two-year period preceding delivery of its fairness opinion. However, based on its participation as bookrunner on three billion dollar-plus IPOs for Samsung and its subsidiaries, it is unclear whether this amount includes any commissions received in the IPO transactions.

49. The timing of JPM's involvement with the Samsung Biologics IPO *while simultaneously advising Harman* in a sale to Samsung, in particular, casts a cloud of suspicion over the financial advisor's impartiality.

50. For example, as early as May 5, 2016, the Korean news media reported on JPM "winning back key financial advisor business with Samsung" after JPM was sent a request for proposal with respect to the Samsung Biologics IPO.³ JPM had reportedly fallen out of favor with Samsung in the prior months

² Joyce Lee, *Cheil IPO to raise \$1.4 billion, Values Samsung Heirs' Stakes at \$2.5 billion*, Reuters, Dec. 5, 2014, available at <http://www.reuters.com/article/us-samsung-group-cheil-ipo-idUSKCN0JJ0NX20141205>.

³ Kim Yoo-chul, *JPMorgan Wins Back Samsung Business*, The Korea Times, May 5, 2016, available at http://www.koreatimes.co.kr/www/news/tech/2016/05/133_204126.html.

“over conflicts concerning the bank’s passive support for Samsung Electronics’ mobile payment system – Samsung Pay,” with the financial advisor previously losing out on the opportunity to provide advisory services to Samsung subsidiary Samsung Bioepis in August 2015.⁴

51. In May 2016, it was announced that Samsung had chosen JPM along with five other advisors to lead Samsung Biologics’ IPO.⁵ The \$1.97 billion IPO was priced in late-October 2016.⁶

52. Perhaps uncoincidentally, Samsung Biologics stock began trading on the Korea Stock Exchange on November 10, 2016, just one day before the Board held a special in-person meeting to receive the fairness opinions of JPM and Lazard, following which the Board authorized management to proceed with finalizing the definitive transaction documentation.

53. The Proxy itself is purposely ambiguous as to the timing of Lazard’s engagement by the Company, stating only that the Board authorized its retention in the “summer of 2016.” Given that Samsung made its interest in Harman known

⁴ *Id.*

⁵ Joyce Lee, *Samsung Biologics Picks Citigroup, Four Others to Manage IPO*, Reuters, May 19, 2016, available at <http://www.reuters.com/article/us-samsung-biologics-ipo-idUSKCN0YA0TZ>.

⁶ Se Young Lee, *Samsung BioLogics Prices \$1.97 Billion IPO, S.Korea’s Second Largest*, Reuters, Oct. 28, 2016, available at <http://www.reuters.com/article/us-samsung-biologics-ipo-idUSKCN12S0GR>.

during August 2016 and that JPM was entangled with Samsung by virtue of its role in the Samsung Biologics IPO, it likely that Lazard was engaged to protect against any conflicts of interest, as the firm had not received any fees from either Harman, nor Samsung in the two years prior to its fairness opinion.

54. Yet despite the need to insulate the Proposed Transaction, the Board continued to allow JPM to act as the point of communication with Company A's advisors, as it was clearly in JPM's best interest to keep Company A sidelined, for the benefit of a quick deal and continued professional relationships with Samsung.

55. As discussed further, *infra*, the Proxy is ambiguous as to the interplay between the Financial Advisors, as each purportedly conducted their own financial analyses and delivered a separate fairness opinion, yet those analyses are presented to Plaintiff and the Class in summary and blended fashion in the Proxy, rendering hopeless any effort to determine whether JPM's analysis was unduly pessimistic as a result of its standing relationship with Samsung.

56. Furthermore, if the Board *did not* receive separate presentations from each of JPM and Lazard and instead opted for the summary-style joint analysis of the Proxy, then it wholly failed in its fiduciary duty to protect against outside conflicts in the sales process, despite identifying such when it engaged Lazard.

57. On September 16, 2016, Samsung and the Company entered into a confidentiality agreement which, as stated in the Proxy, contained a “standstill” provision.

58. Following several in-person and telephonic meetings between representatives of the two companies, on October 4, 2016, Samsung delivered a non-binding letter of intent to acquire the Company in an all-cash transaction for \$106.00 per share. Samsung also conditioned this offer on the execution of an exclusivity agreement.

59. At a Board meeting on October 6, 2016, the Individual Defendants instructed defendant Paliwal to indicate to Samsung that the Company would only be interested in a transaction as a meaningfully higher share price than \$106.00.

60. Coincidentally, at this Board meeting, representatives of JPM also informed the Board that representatives of Company A had contacted the banker to inquire as to an informal meeting to renew discussions related to a transaction between its client and Harman.

61. On October 10, 2016, Samsung, through Mr. Sohn, increased its offer for the Company, indicating that it was prepared to offer \$109 per share in cash to acquire Harman, still conditioned on the Company’s entrance into an exclusivity agreement. The Board met on October 11, 2016 to discuss this new offer for the Company and, despite the fact that Company A’s representatives had not yet met

with JPM, authorized defendant Paliwal to enter into an exclusivity agreement or a “no shop” if he determined it was necessary to secure an offer of at least \$112.00 per share.

62. The gambit ultimately worked, as on October 11, 2016, Samsung increased its offer, first to \$111.00, then to \$112.00, on the condition of the exclusivity agreement.

63. Following the agreement to enter into the exclusivity period, but prior to the execution of any letter, JPM engaged in the only non-Samsung meeting in the entire process, meeting with Company A’s financial advisor. This October 13, 2016 meeting proved, however, to be simply window dressing for the Company’s ultimate decision to engage with Samsung and only Samsung.

64. Following this meeting, JPM, Lazard, and members of the Company’s senior management (*but not the Board*) concluded that “Company A was unlikely to be in a position to make a proposal that the Company’s board would find attractive, particularly in relation to the all-cash \$112 per share proposal made by Samsung.” To further ostracize Company A, defendant Paliwal instructed JPM to call Company A’s representatives on October 14, 2016 to convey that any new offer for the Company would have to include a cash portion higher than that previously offered in December 2015.

65. On this same day, the Company entered into a letter agreement with Samsung that generally prohibited the Company from soliciting competing acquisition proposals until November 3, 2016, extendable to November 14, 2016 by the mutual agreement of the parties.

66. Having effectively discarded the most visible alternative, the Company and Samsung went to work on due diligence in an effort to close the transaction quickly before the emergence of any upset bid.

67. During a late October 2016 due diligence meeting, Samsung's senior executives informed senior members of Company management that it would not proceed with the Proposed Transaction unless certain of Harman's senior management team entered into employment agreements, committing to remain with the Company following the close of the merger.

68. On November 13, 2016, the Board held a special telephonic meeting at which, *inter alia*, JPM and Lazard "reviewed with the [B]oard their respective analyses of the \$112 per share cash consideration to be paid to the Company's stockholders" and delivered to the Board each of their respective fairness opinions. Following a discussion by the Board, it determined to enter into the Proposed Transaction and to approve the Merger Agreement.

THE COMPANY ANNOUNCES THE PROPOSED TRANSACTION

69. On November 14, 2016, the Company and Samsung jointly issued a press release announcing the Proposed Transaction which read, in pertinent part:

Samsung Electronics to Acquire HARMAN, Accelerating Growth in Automotive and Connected Technologies

Samsung Will Gain Significant Presence in Connected Car Market; Addressable Market Expected to Exceed \$100 Billion by 2025

All-Cash Transaction Delivers Significant and Immediate Value to HARMAN Shareholders

Creates End-to-End Solutions Powerhouse by Combining HARMAN's Leadership in Infotainment, Telematics and Sound Management with Samsung's Best-in-Class Connected Mobility Solutions, Semiconductors, User Experience (UX) and Displays

Accelerates Development and Time to Market for Connected Car and Autonomous Driving Innovation

Substantial Growth Opportunities Across Automotive, Audio, IoT and Professional Markets

SEOUL, Korea and STAMFORD, CT – Samsung Electronics (KRX: 005930) (“Samsung”) and Harman International Industries, Incorporated (NYSE: HAR) (“HARMAN”) today announced that they have entered into a definitive agreement under which Samsung will acquire HARMAN for \$112.00 per share in cash, or total equity value of approximately \$8.0 billion. Upon closing, the transaction will immediately give Samsung a significant presence in the large and rapidly growing market for connected technologies, particularly automotive electronics, which has been a strategic priority for Samsung, and is expected to grow to more than \$100 billion by 2025. HARMAN is the market leader in connected car solutions, with more than 30 million vehicles currently equipped with its connected car and audio systems, including embedded infotainment, telematics, connected safety and security. Approximately 65% of HARMAN’s

\$7.0 billion of reported sales during the 12 months ended September 30, 2016 are automotive-related, and its order backlog for this market at June 30, 2016 was approximately \$24 billion.

HARMAN's experience designing and integrating sophisticated in-vehicle technologies, as well as its long-term relationships with most of the world's largest automakers, will create significant growth opportunities for the combined business by enabling it to leverage Samsung's expertise in connected mobility, semiconductors, user experience, displays and its global distribution channels. In addition, the combination of HARMAN's brands and audio capabilities and Samsung's expertise in consumer electronics will deliver enhanced customer benefits and elevate user experiences across Samsung's complete portfolio of consumer and professional products and systems.

"HARMAN perfectly complements Samsung in terms of technologies, products and solutions, and joining forces is a natural extension of the automotive strategy we have been pursuing for some time," said Oh-Hyun Kwon, Vice Chairman and Chief Executive Officer of Samsung Electronics. "As a Tier 1 automotive supplier with deep customer relationships, strong brands, leading technology and a recognized portfolio of best-in-class products, HARMAN immediately establishes a strong foundation for Samsung to grow our automotive platform. Dinesh Paliwal is a proven global leader and, in our extensive discussions, we have developed deep respect for him, his strong senior leadership team and HARMAN's talented employees. HARMAN's sustained track record of rapid growth fueled by technology leadership and an unmatched automotive order pipeline reflects its commitment to innovation and customers."

"The vehicle of tomorrow will be transformed by smart technology and connectivity in the same way that simple feature phones have become sophisticated smart devices over the past decade," added Young Sohn, President and Chief Strategy Officer of Samsung Electronics. "We see substantial long-term growth opportunities in the auto technology market as demand for Samsung's specialized electronic components and solutions continues to grow. Working together, we are confident that HARMAN can become a new kind of Tier 1 provider to the OEMs by delivering end-to-end solutions across the connected ecosystem."

Dinesh Paliwal, HARMAN Chairman, President and CEO, stated, “This compelling all-cash transaction will deliver significant and immediate value to our shareholders and provide new opportunities for our employees as part of a larger, more diversified company. Today’s announcement is a testament to what we have achieved and the value that we have created for shareholders. Samsung is an ideal partner for HARMAN and this transaction will provide tremendous benefits to our automotive customers and consumers around the world. Combining Samsung’s strengths in leading-edge displays, connectivity and processing solutions with HARMAN’s technology leadership and long-standing customer relationships will enable OEMs to provide new offerings for their customers. Partnerships and scale are essential to winning over the long term in automotive as demand for robust connected car and autonomous driving solutions increases at a rapid pace. This transaction will bring HARMAN and Samsung’s complementary strengths together to accelerate innovation in this space. More broadly, this investment underscores the strength of HARMAN’s employees, as well as our success and leadership across our markets. We look forward to working together with Samsung to elevate experiences for consumers worldwide.”

Customer Benefits and Significant Growth Opportunities

Samsung expects the combination to deliver significant growth opportunities and benefits to customers by leveraging Samsung’s and HARMAN’s complementary technologies, resulting in increased market penetration across important end markets.

- **Automotive:** Combining HARMAN’s leadership in new connected car technologies, including its top positions in infotainment, cyber security, over-the-air updates and telematics, with Samsung’s significant expertise and experience in connectivity technologies, including 5G, UX/UI, display technology and security solutions, will enhance HARMAN’s automotive and connected services businesses to drive greater sales and provide significant benefits as automakers speed the adoption of next-generation connected cars.

- **Audio:** HARMAN's leading brands and cutting-edge audio systems include JBL®, Harman Kardon®, Mark Levinson®, AKG®, Lexicon®, Infinity®, and Revel®. The company also licenses Bowers & Wilkins® and Bang & Olufsen® brands for automotive. All of these brands will greatly enhance the competitiveness of Samsung's mobile, display, virtual reality and wearable products to deliver a fully differentiated audio and visual experience for customers.
- **Professional:** The combination will also expand the combined company's business-to-business platform through its ability to deliver integrated, large-scale audio and visual professional solutions at stadiums, concert facilities and other performance centers such as The John F. Kennedy Center for the Performing Arts and STAPLES Center – home of the GRAMMY Awards®.
- **Connected Services:** Samsung will gain access to HARMAN's 8,000 software designers and engineers who are unlocking the potential of the IoT market. This collaboration will deliver the next generation of cloud-based consumer and enterprise experiences, as well as end-to-end services for the automotive market through the convergence of design, data and devices.

Operating Structure and Leadership

Upon closing, HARMAN will operate as a standalone Samsung subsidiary, and continue to be led by Dinesh Paliwal and HARMAN's current management team. Samsung is pursuing a long-term growth strategy in automotive electronics, and plans to retain HARMAN's work force, headquarters and facilities, as well as all of its consumer and professional audio brands. Samsung believes the combination will increase career development and advancement opportunities for the employees of both companies.

Samsung's Automotive Electronics Business Team, which was established in December of 2015 to identify opportunities for Samsung in the automotive sector, will work closely with the HARMAN management team to realize the full growth potential of the combination.

Terms of the Transaction

The purchase price represents a premium of 28% based on HARMAN's closing stock price on November 11, 2016 and a 37% premium to HARMAN's 30-calendar day volume weighted average price ending November 11, 2016. Samsung expects to use cash on hand to fund the transaction. The agreement has been unanimously approved by the boards of directors of both companies.

The transaction, which is subject to approval by HARMAN shareholders, regulatory approvals and other customary closing conditions, is expected to close in mid-2017.

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70. Also on November 14, 2016, the Company filed a Form 8-K with the SEC, wherein it disclosed the Merger Agreement. Collectively, the press release announcing the transaction, the Merger Agreement, and the Proxy reveal that the Proposed Transaction is the product of a flawed sales process and, unless the Merger Consideration is increased, would be consummated at an unfair price.

71. As such, the \$112 per share Merger Consideration significantly undervalues Harman, especially given the significant benefits Samsung will enjoy by capitalizing on Harman's established brands in emerging markets, as discussed *supra*.

72. The insufficient Merger Consideration has not been lost on certain of the Company's largest stockholders, as the *Wall Street Journal*⁷ reported that

⁷ Benoit, David, *Harman Shareholder Plans to Vote Against Sale to Samsung*, Wall Street Journal, Dec. 14, 2016, available at

Alexander Roepers of Atlantic Investment Management, holder of 2.3% stake in the Company, planned to vote against the Proposed Transaction which he stated prematurely short-circuited the Company's previously announced growth plan and the potential to get the stock to nearly \$200 per share.

73. Despite the Company's obvious upside, the Board failed to conduct a process focused on maximizing stockholder value. Thus, the Individual Defendants breached the fiduciary duties they owe to the Company's public stockholders because the Company has been improperly valued and Harman stockholders will not receive adequate or fair value for their valuable Harman holdings.

THE MERGER AGREEMENT UNFAIRLY DETERS COMPETITIVE OFFERS AND IS UNDULY BENEFICIAL TO SAMSUNG

74. To the detriment of Plaintiff and Harman stockholders, as part of the Merger Agreement, the Board has agreed to several unreasonable deal protection devices that operate conjunctively to make the Proposed Transaction a *fait accompli* and ensure that no competing offers will emerge for the Company.

75. First, Section 5.02 of the Merger Agreement explicitly prohibits Harman or any of its affiliates from soliciting or proactively seeking a competing

or better offer, as the language in Section 5.02(a) states that the Company and its representatives must:

(A) immediately cease and cause to be terminated any solicitation, discussion or negotiation with any person conducted prior to the execution of this Agreement by the Company, its Subsidiaries or any of their respective Representatives with respect to any Acquisition Proposal, (B) request the prompt return or destruction of any confidential information previously furnished by the Company, any of its Subsidiaries or any of their respective Representatives to any person within the last twelve (12) months for the purposes of evaluating a possible Acquisition Proposal, and (C) terminate access by all persons (other than Parent and its Representatives) to any physical or electronic data rooms relating to a possible Acquisition Proposal; and (ii) the Company shall not, and shall cause its Subsidiaries not to, and shall direct its or their respective Representatives not to, directly or indirectly, (A) solicit, initiate or knowingly encourage (including by way of furnishing information) the making, submission or announcement by any person of any proposal, offer or inquiry that constitutes, or would reasonably be expected to lead to, an Acquisition Proposal, (B) enter into, continue or participate in any discussions or negotiations with any person regarding any Acquisition Proposal, (C) furnish to any person (other than Parent, Silk USA, Merger Sub, or any designees of Parent, Silk USA or Merger Sub, including their Representatives) any information relating to the Company or any of its Subsidiaries, or afford access to the business, properties, assets, books or records of the Company or any of its Subsidiaries to any person (other than Parent, Silk USA, Merger Sub, or any Representatives or other designees of Parent, Silk USA or Merger Sub), in each case, to knowingly facilitate or knowingly encourage the making of any Acquisition Proposal, (D) approve, endorse or recommend any Acquisition Proposal or any Acquisition Agreement or other agreement requiring the Company to abandon or terminate its obligations under this Agreement, or (E) resolve, propose or agree to do any of the foregoing. Without limiting the foregoing, the Company agrees that any material breach of the restrictions on the Company set forth in this Section 5.02 by any Subsidiary or any Representative of the Company or any of its Subsidiaries shall be deemed a material breach of this Section 5.02 by

the Company. So long as the Company is not in material breach of this Section 5.02, notwithstanding anything to the contrary contained herein pertaining to the Company's ability to enter into, continue or participate in any discussions with any person regarding any Acquisition Proposal, the Company may in good faith seek bona fide clarifications of the terms and conditions of a bona fide unsolicited written Acquisition Proposal to determine whether such Acquisition Proposal constitutes or would reasonably be expected to lead to a Superior Proposal, such request to be made to the person (or its or their Representatives) making such Acquisition Proposal.

76. Furthermore, Section 5.02(c) grants Samsung recurring and unlimited information rights, which gives Harman twenty-four hours to provide unfettered access to confidential, non-public information about competing proposals from third parties which Samsung can then use to prepare a matching bid. Additionally, Section 5.02(e) grants Samsung four business days to negotiate with Harman, amend the terms of the Merger Agreement, and make a counter-offer that only matches the superior third-party offer.

77. The matching rights provision essentially ensures that no superior bidder will emerge, as any potential suitor will be unlikely to expend the time, cost and effort to perform due diligence and make a superior proposal while knowing that Samsung will know of its bid and the details and terms thereof and can easily top it. As a result, the matching rights provision unreasonably favors Samsung, to the detriment of Harman's public stockholders.

78. Finally, Section 8.03 of the Merger Agreement requires the Company to pay Samsung a termination fee of \$240 million in the event the Company

decides to pursue any alternative offer. As such, this termination fee would require any competing bidder to agree to pay a naked premium simply for the right to provide Harman stockholders a superior offer.

79. Ultimately, these preclusive deal protection provisions illegally restrain the Company's ability to solicit or engage in negotiations with any third party regarding a proposal to acquire all or a significant interest in the Company. The narrow circumstances under which the Board may respond to alternative proposals fails to provide an effective "fiduciary out" under the Merger Agreement.

**THE PROXY CONTAINS NUMEROUS
MATERIAL MISSTATEMENTS AND/OR OMISSIONS**

80. Defendants filed the Proxy with the SEC on December 12, 2016 in connection with the Proposed Transaction. As discussed below and elsewhere herein, the Proxy omits material information that must be disclosed to Harman stockholders to enable them to render an informed decision with respect to their upcoming vote on the Proposed Transaction.

81. Most importantly, the Proxy's treatment of JPM's and Lazard's financial analyses is materially deficient because it provides this information in summary fashion and fails to distinguish between those values observed by JPM and those observed by Lazard.

82. To be clear, each financial advisor was separately engaged by the Company, with JPM acting as the Company's longstanding financial advisor and Lazard engaged in the summer of 2016.

83. Further, each is to be compensated for their work separately, with JPM to receive an aggregate fee of approximately \$31 million and Lazard an aggregate fee of \$25 million.

84. Additionally, the Proxy makes it clear that at the November 13, 2016 Board meeting, “[r]epresentatives of the Financial Advisors reviewed with the [B]oard their *respective analyses* of the \$112 per share in cash to be paid to the holders of the Company's common stock” (emphasis added), with *each* ultimately providing an oral fairness opinion to the Board, separately confirmed in writing by a fairness opinion letter annexed to the Proxy as Annex B and Annex C.

85. Yet for each of the valuation analyses purportedly undertaken to confirm the fairness of the Proposed Transaction, the Proxy treats JPM's and Lazard's financial observations as one in the same.

86. With respect to the *Selected Comparable Companies Analysis*, the Proxy states in no uncertain terms that “[*e*]ach of the *Financial Advisors* reviewed and analyzed certain financial information, valuation multiples and market trading data related to selected publicly traded companies. . .” (Emphasis added). Incredulously, according to the Proxy, not only did Lazard and JPM both

separately choose the *same* five companies to constitute the peer group for this analysis (“The companies selected *by each of the Financial Advisors* were as follows: . . . (emphasis added)), but each selected the same multiple reference ranges for both the 2017 Estimated Firm Value to EBITDA (2017E FV/EBITDA) and 2017 Estimated Price to Earnings (2017E P/E). This analysis does not disclose how stock-based compensation was treated in the calculation of EBITDA – a material omission that is repeated in each analysis conducted by the Financial Advisors.

87. Similarly, with respect to their *Sum-of-the-Parts Analysis*, the Proxy states that each of the Financial Advisors performed a sum-of-the-parts analysis, again, applying the same peer group for each of the four core business segments of Harman (“[T]hese companies were selected . . . for purposes of the analysis *by each of the Financial Advisors* . . .” (emphasis added) before ultimately each applying the same EBITDA multiple ranges to the 2017 EBITDA forecast for the Company’s business segments (Connected Car, Car Audio, Connected Services, Consumer Audio, Professional Solutions). The Proxy states that each of the Financial Advisors purportedly relied upon their separate “judgment and experience” to determine the EBITDA multiple range to apply to each business segment. Yet despite the obviously subjective nature of such an application, the Proxy currently states that both Lazard and JPM applied identical EBITDA

multiple ranges, ultimately arriving at the same value conclusions. Any claim that the Financial Advisors separately derived the same multiple ranges is rendered further unlikely by the fact that several of the EBITDA multiple ranges applied fell entirely below the Mean and Median multiples observed:

	Multiple of 2017E FV/EBITDA		EBITDA Multiple Range
	Mean	Median	
Connected Car/Car Audio	6.3x	6.1x	5.5x to 7.5x
Connected Services	9.5x	9.0x	7.0x to 9.0x
Consumer Audio	8.8x	9.0x	9.0x to 11.0x
Professional Solutions	8.3x	8.3x	6.0x to 8.0x

88. Once again, with respect to the *Selected Precedent Transaction Analysis*, JPM’s and Lazard’s financial analyses are treated holistically, with each financial advisor purportedly deriving the same firm value to EBITDA for the twelve month period prior to the observed deal’s announcement. Notably, the Proxy is silent as to who chose the precedent transaction sample analyzed by the Financial Advisors, stating only that each reviewed the transactions before reaching their separate (but identical) value conclusions.

89. The discussions of the Financial Advisors’ *Discounted Cash Flow Analysis* presented in the Proxy is similarly misleading as it likewise presents JPM’s and Lazard’s value conclusions without indicating which firm found what values. Once again, this is not a case where multiple financial advisors endeavored

to provide joint financial analyses – it is clear from the Proxy that “[e]ach of the *Financial Advisors conducted a discounted cash flow analysis* for the purpose of determining an implied fully diluted equity value per share of the Company’s common stock.” (emphasis added). Further, “[e]ach of the Financial Advisors calculated the unlevered free cash flows that the Company is expected to generate during fiscal year 2017 through 2017” and “estimated a range of terminal values for the Company at the end of the ten-year period ending 2026 by applying a perpetual growth rate ranging from 1.5% to 2.5% to the unlevered free cash flow of the Company for the terminal year of the projections.” Finally, the Proxy states that both Lazard and JPM *each* applied a discount rate of 9.5% to 10.5% -- a range that was “based upon each of the Financial Advisors’ analysis of the capital structures and costs of equity and debt of the Company and publicly traded companies that may be considered similar to the Company.” Again, this analysis does not disclose how stock-based compensation was treated in the calculation of unlevered free cash flows, and also does not disclose the implied terminal pricing multiples corresponding to the assumed perpetuity growth rates.

90. The Proxy’s presentation of the *Discounted Cash Flow Analysis-Illustrative Sensitivity Case*, *Illustrative Present Value of Future Share Price Analysis*, and *Illustrative Present Value of Future Share Price Analysis – Sensitivity Case* each suffers from the same materially deficiency in that they fail

to parse out those observations made by JPM and those attributable to Lazard despite the language of the Proxy clearly stating that each financial advisor performed each of these valuation analyses.

91. The Proxy's failure to separate JPM's and Harman's value conclusions renders the disclosure document materially deficient because it directly impacts the Company's public stockholders' ability to judge the credibility to the Financial Advisors and the valuation processes employed. Further, once the Board determined to disclose information related to its Financial Advisors' analyses, it was under the obligation to ensure that such disclosures were not deliberately misleading – a duty they have failed to uphold with respect to the Proxy.

92. Additionally, the Proxy is deficient as it fails to provide complete and accurate financial projections and information related thereto, as create by Company management and relied upon by the Board and the Financial Advisors.

93. First, the *Management Projections and Extrapolations* fail to provide the necessary line items to calculate unlevered free cash flow, as purportedly done by the Financial Advisors in each's *Discounted Cash Flow Analysis* (“Each of the Financial Advisors calculated the unlevered free cash flows that the Company is expected to generate during fiscal year 2017 through 2026 based upon the Management Projections and the Extrapolations prepared by or at the direction of the management of the Company, as further described in the section entitled “ –

Projected Financial Information.”). Specifically, the *Management Projections and Extrapolations* fail to disclose, *inter alia*, unlevered free cash flows or stock-based compensation.

94. What is more, the Proxy does not indicate which of the two sets of projections provided (the “*Sensitized Management Projections*” and “*Management Projections and Extrapolations*”), in the eyes of Company management, best represent their view of the Company’s future financial prospects. This information is particularly material because the *Discounted Cash Flow Analysis* and *Present Value of Future Share Price Analysis* both arrive at a range of values above the Proposed Transaction price using the “*Management Projections and Extrapolations*” (\$104.00 to \$129.25 and \$109.50 to \$124.00), but a range of values within or below the Proposed Transaction price using the “*Sensitized Management Projections*” (\$89.50 to \$111.00 and \$96.00 to \$108.75, respectively). The Proxy also does not disclose at what point in the sales process the sensitized projections were actually developed, suggesting they may have manipulated at the eleventh hour to justify the insufficient Merger Consideration.

95. The omission of this key information related to Company management’s projections renders the Proxy materially misleading because, without full access to Harman’s estimates of its future financial performance and information as to how those projections were created, stockholders cannot reliably

assess the credibility of the various analyses performed by the Financial Advisors that incorporated these projections, and thus cannot determine whether the Proposed Transaction is indeed fair, as defendants and their Financial Advisors claim. These financial projections provide a sneak peek into Harman's expected future performance (*i.e.*, growth/profitability) and, consequently, Harman's value as a standalone entity. More importantly, however, this expected performance is more reliable than similar forecasts prepared by third-party analysts and other non-insiders as it comes from members of corporate management who have their fingers on the pulse of the Company. Accordingly, it is no surprise that financial projections are among the most highly sought after disclosures by shareholders in the context of corporate transactions such as this.

96. Furthermore, the projections entirely omit any forecasts or information necessary to derive forecasts for the Company's Connected Car, Car Audio, Connected Services, Consumer Audio and Projection Solutions segment. According to the Proxy's discussion of the Financial Advisors' *Sum-of-the-Parts Analysis*, each of the Financial Advisors applied EBITDA multiple ranges to the 2017 EBITDA forecast for each segment, each of which "was based on projections prepared by the Company's management and included corporate allocations to each segment."

97. This information is particularly material to Company stockholders where the Company's financial advisors sought to make a sum of the parts value conclusion and the Board itself was considering splitting the Company's business segments into two or more publicly traded companies as recently as summer and fall 2016.

98. Finally, with respect to the process employed by the Board, the Proxy fails to disclose whether the confidentiality agreement entered into with Company A on November 2, 2015 contained a standstill provision and whether that provision continued to prevent this once-interested entity from submitting a topping bid.

99. The information is material here where the Company engaged in a single-bidder process and never really sought to engage outside companies and quickly discarded Company A in favor of entering an exclusivity agreement with Samsung.

100. Taken together, this omitted information, if disclosed, would significantly alter the total mix of information available to Harman stockholders and directly informs their decision to vote in favor of the transaction with Samsung.

101. Accordingly, Plaintiff seeks injunctive and other equitable relief to prevent the irreparable injury that the Company's stockholders will continue to suffer absent judicial intervention.

COUNT I

Claim for Breach of Fiduciary Duties Against the Individual Defendants

102. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

103. The Individual Defendants have violated their fiduciary duties of care, loyalty, and good faith owed to the public stockholders of Harman.

104. By the acts, transactions and courses of conduct alleged herein, the Individual Defendants, individually and acting as a part of a common plan, are attempting to unfairly deprive Plaintiff and other members of the Class of the true value of their investment in Harman.

105. As demonstrated by the allegations above, the Individual Defendants failed to exercise the care required, and breached their duties of loyalty and good faith owed to the stockholders of Harman because, among other reasons, they actively took steps to deny the receipt of value maximizing topping bids and failed to take reasonable steps to obtain and/or ensure that Harman stockholders receive adequate and fair value for their shares.

106. The Individual Defendants dominate and control the business and corporate affairs of Harman both through their positions within the Company and on the Board, and are in possession of private corporate information concerning Harman's assets, business, and future prospects. Thus, there exists an imbalance

and disparity of knowledge and economic power between them and the public stockholders of Harman, which makes it inherently unfair for them to benefit their own interests to the exclusion of maximizing stockholder value.

107. The Individual Defendants have also violated their fiduciary duties by causing materially misleading and incomplete information to be disseminated to the Company's public stockholders in the Proxy.

108. By reason of the foregoing acts, practices, and course of conduct, the Individual Defendants have failed to exercise ordinary care and diligence in the exercise of their fiduciary obligations toward Plaintiff and the other members of the Class.

109. As a result of the actions of defendants, Plaintiff and the Class will suffer irreparable injury in that they have not and will not receive their fair portion of the value of Harman's assets and businesses and have been and will be prevented from obtaining a fair price for their common stock.

110. Unless the Individual Defendants are enjoined by the Court, they will continue to breach their fiduciary duties owed to Plaintiff and the members of the Class, all to the irreparable harm of the members of the Class.

111. Plaintiff and the members of the Class have no adequate remedy at law. Only through the exercise of this Court's equitable powers can Plaintiff and

the Class be fully protected from the immediate and irreparable injury which the Individual Defendants' actions threaten to inflict.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands injunctive relief in his favor and in favor of the Class and against defendants as follows:

A. Declaring that this action is properly maintainable as a class action and certifying Plaintiff as Class representative;

B. Preliminarily and permanently enjoining defendants and their counsel, agents, employees and all persons acting under, in concert with, or for them, from proceeding with, consummating, or closing the Proposed Transaction, unless and until the Company adopts and implements a procedure or process to obtain an agreement providing fair and reasonable terms and consideration to Plaintiff and the Class;

C. Rescinding, to the extent already implemented, the Merger Agreement or any of the terms thereof, or granting Plaintiff and the Class rescissory damages;

D. Directing the Individual Defendants to account to Plaintiff and the Class for all damages suffered as a result of the Individual Defendants wrongdoing;

E. Awarding Plaintiff the costs and disbursements of this action, including reasonable attorneys' and experts' fees; and

F. Granting such other and further equitable relief as this Court may deem just and proper.

Dated: December 22, 2016

FARUQI & FARUQI, LLP

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