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U S DISTRICT &
 BANKRUPTCY COURTS

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FILED CLERK, DISTRICT OF IDAHO
 Carmen L. Cook, Clerk.

Attorneys for Defendant, Micron Electronics, Inc.

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH, MICHAEL B.
 HINCKLEY, JACQUELINE T. HLADUN,
 MARILYN J. CRAIG, JEFFERY P.
 CLEVENGER, and TIMOTHY C.
 KAUFMANN, individually and on behalf of
 those similarly situated,

Plaintiffs,

vs.

MICRON ELECTRONICS, INC., a
 Minnesota corporation,

Defendant.

)
) Case No. CIV 01-0244-S-BLW
)
)
)

)
) **DEFENDANT MICRON ELECTRONICS,**
) **INC.'S RESPONSE TO PLAINTIFFS'**
) **MOTION FOR APPROVAL OF SECOND**
) **ROUND OF NOTICES**
)

Defendant Micron Electronics, Inc., by and through its counsel of record, hereby submits this response to Plaintiffs' Motion for Approval of Second Round of Notices. (Docket No. 167). Plaintiffs' Motion was filed on May 23, 2003, and was received by Defendant's counsel via regular mail on the afternoon of May 27, 2003. This response is timely made.

**DEFENDANT MICRON ELECTRONICS, INC.'S RESPONSE TO PLAINTIFFS'
 MOTION FOR APPROVAL OF SECOND ROUND OF NOTICES - 1**

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Defendant does not object to Plaintiffs sending out a second round of notices, as requested in Plaintiffs' Motion. In fact, a motion in this regard previously was anticipated by the parties. (Docket Nos. 160 and 165) and the Court (Docket No. 161).

However, there are certain issues relating to the administrative processes for the initial notices mailed by Plaintiffs in this case which were not fully addressed in the subject motion, and which Defendant had anticipated would be fully disclosed by Plaintiffs. Accordingly, Defendant must now bring those issues to the Court's attention in order to maintain an accurate record in this proceeding and to maintain any rights that may exist with regard to potential objections concerning these administrative processes.

In addition, Defendant also is concurrently submitting a revised, proposed order that would be acceptable with regard to the subject motion. Defendant does not request oral argument or a hearing on the motion.

It is Defendants' position (and Plaintiffs have admitted to a certain extent) that the procedures as set out in the parties' Stipulation Re: Provision of Notice and as adopted by the Court's subsequent Order (Docket Nos. 160, 161) were not followed with regard to the first notice period. Specifically, there were 48 notice packages that were erroneously resent to putative claimants without the Court's permission. Defendants further assert that Plaintiffs did not keep a log as plainly required by the Stipulation and Order. (Docket Nos. 160, 161).

Among other correspondence on this issue, Defendant, on April 10, 2003, sent a letter to Plaintiffs' counsel setting forth Defendant's position. An excerpt of this letter is provided below:

Any proposed stipulation [to proceed with the second round of notices] also must include language that defendant and other interested parties expressly reserve any and all rights to challenge

DEFENDANT MICRON ELECTRONICS, INC.'S RESPONSE TO PLAINTIFFS' MOTION FOR APPROVAL OF SECOND ROUND OF NOTICES - 2

the sufficiency of the prior notice package mailings and/or any related consents due to plaintiffs' failures to follow the agreed-upon and Court-ordered process. In addition, language should be included that similarly and expressly reserves any and all rights to challenge the sufficiency or standing of the three claimants who opted in from the erroneously re-sent packages.

(April 10, 2003 correspondence from Defendant's counsel to Plaintiff's counsel).

Despite the parties' efforts, no agreement has been reached on whether the proper procedures were followed for the first notice period. Defendant does not wish to prevent Plaintiffs from proceeding with the second round of notices, but, pursuant to the quoted language above, Defendant wishes to reserve all rights and make its objections clear on the record. The proposed revision to the Order, submitted with this response, provides this clarification.

Finally, Defendant is submitting a revised proposed order which includes language to the effect that no other additional mailings are to follow. It is Defendant's desire to make clear by the Court's order that this second round of notices will conclude the notice period.

DATED this 18th day of May, 2003.

STOEI. RIVES LLP



Kim J. Dockstader

**DEFENDANT MICRON ELECTRONICS, INC.'S RESPONSE TO PLAINTIFFS'
MOTION FOR APPROVAL OF SECOND ROUND OF NOTICES - 3**

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CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of May, 2003, a true and correct copy of the foregoing **DEFENDANT MICRON ELECTRONICS, INC.'S RESPONSE TO PLAINTIFFS' MOTION FOR APPROVAL OF SECOND ROUND OF NOTICES** was served on the following individuals by the manner indicated:

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 By Electronic Transmission



Kim J Dockstader