

**E-FILED**

Jul 28, 2010 8:35 AM

David H. Yamasaki  
Chief Executive Officer/Clerk  
Superior Court of CA, County of Santa Clara  
Case #1-09-CV-149132 Filing #G-24293  
By R. Walker, Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA

In re VARIAN, INC. SHAREHOLDER  
LITIGATION

) Lead Case No. 1:09-cv-149132

) CLASS ACTION

\_\_\_\_\_  
This Document Relates To:

) Assigned to: The Honorable Joseph Huber

ALL ACTIONS.

) ~~[PROPOSED]~~ ORDER PRELIMINARILY  
APPROVING SETTLEMENT AND  
PROVIDING FOR NOTICE

DATE: July 16, 2010  
TIME: 9:00 a.m.  
DEPT: 8  
DATE ACTION FILED: 08/05/09

1           WHEREAS, a consolidated class action is pending before the Court captioned *In re Varian, Inc.*  
2 *Shareholder Litigation*, Lead Case No. 1:09-cv-149132;

3           WHEREAS, the parties having made application for an order approving the settlement of this  
4 Action, in accordance with a Stipulation of Settlement dated as of June 22, 2010 (the "Stipulation"),  
5 which, together with the Exhibits annexed thereto, sets forth the terms and conditions for a proposed  
6 settlement of the Action and for dismissal of the Action with prejudice upon the terms and conditions  
7 set forth therein; and the Court having read and considered the Stipulation and the Exhibits annexed  
8 thereto; and

9           WHEREAS, all defined terms contained herein shall have the same meanings as set forth in the  
10 Stipulation.

11           NOW, THEREFORE, IT IS HEREBY ORDERED:

12           1. Pursuant to §382 of the California Code of Civil Procedure, the Court certifies, for  
13 purposes of effectuating this settlement only, a Settlement Class of all Persons who owned Varian  
14 common stock at any time from July 27, 2009, through and including May 14, 2010, the date of the  
15 closing of the Acquisition, including any and all of their successors-in-interest, representatives, agents,  
16 trustees, executors, heirs, spouses, marital communities, assigns or transferees, and any person or entity  
17 acting for or on behalf of, or claiming under any of them, and each of them. Excluded from the  
18 Settlement Class are Defendants, members of the immediate family of any Individual Defendant, any  
19 entity in which a Defendant has or had a controlling interest and the legal representatives, heirs,  
20 successors or assigns of any such excluded person. Also excluded from the Settlement Class are those  
21 Persons who timely and validly request exclusion from the Settlement Class.

22           2. With respect to the Settlement Class, this Court finds and concludes, for purposes of this  
23 settlement only, that: (a) the Members of the Settlement Class are so numerous that joinder of all  
24 Settlement Class Members in the Action is impracticable; (b) there are questions of law and fact  
25 common to the Settlement Class which predominate over any individual questions; (c) the claims of the  
26 Plaintiffs are typical of the claims of the Settlement Class; (d) the Plaintiffs and their counsel have fairly  
27 and adequately represented and protected the interests of all of the Settlement Class Members; and (e) a  
28 class action is superior to other methods for the fair and efficient adjudication of the matter.

1           3.       The Court does hereby preliminarily approve the Stipulation and the settlement set forth  
2 therein, subject to further consideration at the Settlement Hearing described below.

3           4.       A hearing (the "Settlement Hearing") shall be held before this Court on Oct. 1,  
4 2010, at 9:00 a.m., at the Superior Court of the State of California, County of Santa Clara, Civil  
5 Division, 191 North First Street, San Jose, California, to determine whether the proposed settlement of  
6 the Action on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate  
7 to the Settlement Class and should be approved by the Court; and whether a Judgment as provided in  
8 ¶1.8 of the Stipulation should be entered. The Court may continue or adjourn the Settlement Hearing  
9 without further notice to Members of the Settlement Class.

10          5.       The Court approves, as to form and content, the Notice of Settlement of Class Action  
11 (the "Notice") annexed as Exhibit A-1 hereto, and finds that the mailing and distribution of the Notice  
12 substantially in the manner and form set forth in ¶¶6 and 7 of this Order meet the requirements of §382  
13 of the California Code of Civil Procedure, California Rules of Court, Rule 3.766, and due process, and  
14 is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all  
15 Persons entitled thereto.

16          6.       Gilardi & Co. LLC is appointed to act as Notice Administrator to supervise and  
17 administer the notice procedure subject to such supervision and direction of Lead Counsel or the Court  
18 as may be necessary or the circumstances require as more fully set forth below. Varian or its successor  
19 shall pay all reasonable costs and expenses in providing notice to the Settlement Class.

20          7.       Not later than Aug. 6, 2010 (the "Notice Date"), the Notice Administrator shall  
21 cause a copy of the Notice, substantially in the form annexed hereto as Exhibit A-1, to be mailed by  
22 first-class mail to all Settlement Class Members who can be identified with reasonable effort.

23          8.       At least seven (7) calendar days prior to the Settlement Hearing, Lead Counsel shall file  
24 with the Court proof, by affidavit or declaration, of such mailing.

25          9.       Nominees who held Varian common stock at any time during the period from July 27,  
26 2009, through and including May 14, 2010, the date of the consummation of the Acquisition, for the  
27 beneficial ownership of another shall mail the Notice to all such beneficial owners of such common  
28 stock within ten (10) days after receipt thereof or send a list of the names and addresses of such

1 beneficial owners to the Notice Administrator with ten (10) days of receipt, in which event the Notice  
2 Administrator shall promptly mail the Notice to such beneficial owners.

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

5 11. Any Member of the Settlement Class may request to be excluded from the Settlement  
6 Class. Such request for exclusion must be postmarked on or before Sep. 10, 2010, and otherwise  
7 comply with the requirements set forth in the Notice.

8 12. Unless and until the settlement is canceled and/or terminated pursuant to ¶6.2 of the  
9 Stipulation, neither the Plaintiffs nor any Settlement Class Member, either directly, representatively, or  
10 in any other capacity, shall commence or prosecute against any of the Released Persons, any action or  
11 proceeding in any court or tribunal asserting any of the Released Claims.

12 13. Any Member of the Settlement Class may appear and show cause, if he, she or it has any  
13 reason why the proposed settlement of the Action should or should not be approved as fair, reasonable  
14 and adequate, or why the Judgment should or should not be entered thereon. Any Member of the  
15 Settlement Class who wishes to submit a written objection to the terms and conditions of the proposed  
16 settlement, or, if approved, the Judgment to be entered thereon must do so such that such objections are  
17 received on or before Sep. 10, 2010, by *Varian Shareholder Litigation*, Notice Administrator,  
18 c/o Gilardi & Co. LLC, P.O. Box 8040, San Rafael, CA 94912-8040. Any Member of the Settlement  
19 Class who does not make his, her or its objection in the manner provided shall be deemed to have  
20 waived such objection and shall forever be foreclosed from making any objection to the fairness or  
21 adequacy of the proposed settlement as incorporated in the Stipulation unless otherwise ordered by the  
22 Court.

23 14. All papers including memoranda or briefs in support of the settlement or attorneys' fees  
24 and expenses shall be filed and served seven (7) calendar days prior to the Settlement Hearing.

25 15. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or  
26 proceedings connected with it, shall be construed as an admission or concession by Defendants of the  
27 truth of any of the allegations in the Action, or of any liability, fault, or wrongdoing of any kind.

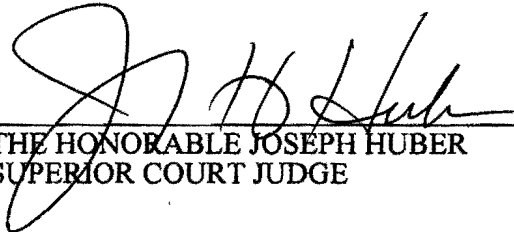
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1           16.    The Court reserves the right to adjourn the date of the Settlement Hearing without further  
2 notice to the Members of the Settlement Class, and retains jurisdiction to consider all further  
3 applications arising out of or connected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

6           IT IS SO ORDERED.

7 DATED:

8           **JUL 28 2010**

  
THE HONORABLE JOSEPH HUBER  
SUPERIOR COURT JUDGE

9 Submitted by,

10 ROBBINS GELLER RUDMAN  
11    & DOWD LLP  
12 RANDALL J. BARON  
13 A. RICK ATWOOD, JR.  
14 JEFFREY D. LIGHT  
15 DAVID T. WISSBROECKER

  
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Co-Lead Counsel for Plaintiffs

**EXHIBIT A-1**

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Co-Lead Counsel for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

In re VARIAN, INC. SHAREHOLDER  
LITIGATION

Lead Case No. 1:09-cv-149132

CLASS ACTION

This Document Relates To:

Assigned to: The Honorable Joseph Huber

ALL ACTIONS.

NOTICE OF SETTLEMENT OF CLASS  
ACTION

EXHIBIT A-1

DEPT: 8  
DATE ACTION FILED: 08/05/09

1 TO: ALL PERSONS WHO OWNED VARIAN, INC. ("VARIAN" OR THE "COMPANY")  
2 COMMON STOCK AT ANY TIME FROM JULY 27, 2009, THROUGH AND INCLUDING  
3 THE CONSUMMATION OF THE ACQUISITION OF VARIAN BY COBALT  
4 ACQUISITION CORP. ("COBALT") ON MAY 14, 2010

5 PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR  
6 RIGHTS MAY BE AFFECTED BY PROCEEDINGS IN THIS LITIGATION.

7 This Notice has been sent to you pursuant to an Order of the Santa Clara County Superior Court  
8 (the "Court"). The purpose of this Notice is to inform you of the proposed settlement of this class  
9 action litigation and of the hearing to be held by the Court to consider the fairness, reasonableness, and  
10 adequacy of the settlement. This Notice describes the rights you may have in connection with the  
11 settlement and what steps you may take in relation to the settlement and this class action litigation.

12 This Notice is not an expression of any opinion by the Court about the merits of any of the  
13 claims or defenses asserted by any party in this Action or the fairness or adequacy of the proposed  
14 settlement.

15 **I. THE LITIGATION**

16 On July 27, 2009, Varian, Inc. ("Varian" or the "Company") and Agilent Technologies, Inc.  
17 ("Agilent") announced that they had entered into a definitive merger agreement in which Cobalt  
18 Acquisition Corp., a wholly owned subsidiary of Agilent would acquire all outstanding shares of Varian  
19 for \$52.00 per share in cash (the "Acquisition").

20 On and after August 5, 2009, the following complaints were filed in the Superior Court of  
21 California for Santa Clara County on behalf of holders of Varian common stock.

22 **Case Name and Number**

23 **Date Filed**

24 *Feivel Gottlieb Plan-Administrator Feivel Gottlieb*  
25 *Defined Benefit Pension Plan DTD 01-01-84,*  
26 *individually and on behalf of all others similarly*  
27 *situated v. Garry W. Rogerson, et al.,*  
28 Case No. 1:09-cv-149132

On August 5, 2009

*Stuart Kreisberg, individually and on behalf of all*  
*others similarly situated v. Garry W. Rogerson, et*  
*al.,*  
Case No. 1:09-cv-149383

On August 7, 2009

On August 13, 2009, the Court entered an Order consolidating the *Gottlieb* and *Kreisberg*  
actions under the caption *In re Varian, Inc. Shareholder Litigation*, Lead Case No. 1:09-cv-149132 (the

1 “Action”). The Order also appointed interim lead counsel. On August 14, 2009, interim lead counsel  
2 filed a consolidated amended complaint in the Action.

3 On August 19, 2009, another complaint was filed on behalf of holders of Varian common stock,  
4 entitled *Hawaii Laborers Pension Fund (“Hawaii”), On Behalf of Itself and All Others Similarly*  
5 *Situated v. Varian, Inc., et al.*, Case No. 1:09-cv-150234 (the “Hawaii Action”).

6 The consolidated amended complaint and the *Hawaii* complaint named as defendants the  
7 Company and its Board of Directors, consisting of Garry W. Rogerson, Wayne R. Moon, John G.  
8 McDonald, Elizabeth E. Tallett, Richard U. De Schutter, and James T. Glover (the “Individual  
9 Defendants”) (together with Varian, the “Varian Defendants”), as well as Agilent and Cobalt (the  
10 “Agilent Defendants”) (together with the Varian Defendants, “Defendants”), and sought relief based on  
11 allegations that the Acquisition constituted a breach of the fiduciary duties owed to the Company’s  
12 shareholders by the Individual Defendants and included allegations that the Company and the Agilent  
13 Defendants aided and abetted those breaches of fiduciary duties.

14 On August 19, 2009, Plaintiff Hawaii filed a motion for expedited discovery. On August 20,  
15 2009 Varian filed the definitive proxy statement with the SEC (the “Proxy Statement”). On August 21,  
16 2009, Plaintiff Hawaii filed an application for consolidation and appointment of lead counsel, seeking to  
17 have the *Hawaii* Action consolidated with the *Gottlieb* and *Kreisberg* actions, and to have its counsel  
18 appointed as lead counsel.

19 On August 26, 2009, the Court entered a stipulation and order modifying its previous order,  
20 consolidating the *Hawaii* Action into the Action and appointing Robbins Geller Rudman & Dowd LLP,  
21 Bull & Lifshitz, LLP, and Levi & Korsinsky, LLP as Co-Lead Counsel.

22 Plaintiffs and their counsel conducted an extensive investigation and discovery regarding their  
23 claims for injunctive and declaratory relief following the filing of the motions for expedited discovery,  
24 the parties met and conferred, and Varian produced thousands of pages of documents to Plaintiffs.  
25 Plaintiffs also engaged in substantial arm’s-length negotiations with Defendants regarding a possible  
26 resolution of the Action. After the arm’s-length settlement negotiations which included extensive  
27 substantive discussions between counsel for the parties regarding the information in the documents  
28

1 produced by Varian, the parties entered into an agreement-in-principle to resolve the Action.  
2 Thereafter, the parties executed a Memorandum of Understanding (“MOU”).

3 The settlement set forth in the Stipulation of Settlement dated June 22, 2010 (“Stipulation”)  
4 reflects the results of the parties’ negotiations and the terms of the MOU. An agreement-in-principle  
5 was only reached after arm’s-length negotiations between the parties who were all represented by  
6 counsel with extensive experience and expertise in shareholder class action litigation. During the  
7 negotiations, all parties had a clear view of the strengths and weaknesses of their respective claims and  
8 defenses. Plaintiffs and their counsel have concluded that the additional disclosures provided Varian  
9 shareholders with information sufficient to cast an informed vote on the Acquisition. As a result,  
10 Plaintiffs and their counsel believe that the settlement is in the best interest of the Settlement Class.

11 **II. TERMS OF THE PROPOSED SETTLEMENT**

12 1. As a direct result of the prosecution of the Action and the extensive ongoing negotiations  
13 between the Settling Parties, a proposed settlement has been reached under the following terms:

14 (a) Varian has made additional disclosures concerning the Acquisition by filing a  
15 Form 8-K with the Securities and Exchange Commission (“SEC”) on or about September 25, 2009.<sup>1</sup>

16 The following additional disclosures were made in the Form 8-K.

17 (i) Additional information regarding J.P. Morgan’s Discounted Cash Flow  
18 Analysis.

19 (ii) Additional information regarding J.P. Morgan’s Selected Public  
20 Benchmarks Analysis.

21 (iii) Additional information regarding J.P. Morgan’s financial analysis of the  
22 Acquisition.

23 (iv) Additional information regarding another potential bidder for Varian and  
24 Varian’s Board of Director’s decision not to continue to pursue discussions with that bidder.

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26  
27 <sup>1</sup> The Form 8-K is attached as Exhibit C to the Stipulation which can be viewed at  
28 [www.gilardi.com](http://www.gilardi.com).

1 (b) Varian or its successor shall be responsible for paying all reasonable costs and  
2 expenses incurred in providing notice to the Settlement Class.

3 2. Varian or its successor has also agreed, subject to the terms of the Stipulation, to pay, or  
4 cause to be paid to, Plaintiffs' Counsel \$625,000, for their attorneys' fees and expenses, subject to Court  
5 approval. The settlement, however, is not in any way conditioned on the Court awarding such an  
6 amount, or any particular amount, of attorneys' fees and expenses.

7 3. The Settling Parties also agree, for purposes of this settlement only, to the certification of  
8 a Settlement Class under §382 of the California Code of Civil Procedure.

9 **III. REASONS FOR THE SETTLEMENT**

10 The Plaintiffs believe that the claims asserted in the Action have merit. However, Plaintiffs'  
11 Counsel recognize and acknowledge the expense and length of continued proceedings necessary to  
12 prosecute the Action against the Defendants through trial and through appeals. Counsel for the  
13 Plaintiffs also have taken into account the uncertain outcome and the risk of any litigation, especially in  
14 a complex action such as this Action, as well as the difficulties and delays inherent in such litigation.  
15 Plaintiffs' Counsel also are mindful of the inherent problems of proof and possible defenses to the  
16 claims asserted in the Action. Plaintiffs' Counsel believe that the settlement set forth in the Stipulation  
17 confers substantial benefits upon the Settlement Class. Based on their evaluation, Plaintiffs' Counsel  
18 have determined that the settlement set forth in the Stipulation is in the best interests of the Plaintiffs  
19 and the Settlement Class.

20 The Defendants have denied and continue to deny each and all of the claims and contentions  
21 alleged by the Plaintiffs in the Action. The Defendants expressly have denied and continue to deny all  
22 charges of wrongdoing or liability against them as alleged in the complaints and the Action, and  
23 specifically deny that the proxy materials filed by Varian in connection with the Acquisition, were  
24 incomplete or in any way misleading, or that any additional disclosure was required under SEC rules or  
25 any applicable legal principle. The Defendants also have denied and continue to deny, *inter alia*, the  
26 allegations that the Plaintiffs or the Settlement Class have suffered damage or that the Plaintiffs or the  
27 Settlement Class were harmed by the conduct alleged in the complaints and the Action.

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1           Nonetheless, the Defendants have concluded that further conduct of the Action would be  
2 protracted and expensive, and that it is desirable that the Action be fully and finally settled in the  
3 manner and upon the terms and conditions set forth in the Stipulation. The Defendants also have taken  
4 into account the uncertainty and risks inherent in any litigation, especially in complex cases like this  
5 Action. The Defendants have, therefore, determined that it is desirable and beneficial to them that the  
6 Action be settled in the manner and upon the terms and conditions set forth in the Stipulation.

7 **IV. NOTICE OF HEARING ON PROPOSED SETTLEMENT**

8           A settlement hearing will be held on OCT 1, 2010, at 9:00 a.m., before the Honorable  
9 Joseph Huber, Superior Court Judge, at the Superior Court of the State of California, County of Santa  
10 Clara, Civil Division, 191 North First Street, San Jose, California (the "Settlement Hearing"). The  
11 purpose of the Settlement Hearing will be to determine: (a) whether the settlement should be approved  
12 as fair, reasonable, and adequate; and (b) whether the Judgment should be entered. The Court may  
13 adjourn or continue the Settlement Hearing without further notice of any kind.

14 **V. DEFINITIONS USED IN THIS NOTICE**

15           1. "Acquisition" means the merger agreement and any amendments thereto whereby  
16 Cobalt, a wholly owned subsidiary of Agilent, acquired all of the outstanding shares of Varian for  
17 \$52.00 per share in cash.

18           2. "Agilent" means Agilent Technologies, Inc. and any of its predecessors, successors,  
19 parents, subsidiaries, divisions, or affiliates.

20           3. "Cobalt" means Cobalt Acquisition Corp. and any of its predecessors, successors,  
21 parents, subsidiaries, divisions, or affiliates.

22           4. "Defendants" means Varian, Agilent, Cobalt, Garry W. Rogerson, Wayne R. Moon, John  
23 G. McDonald, Elizabeth E. Tallett, Richard U. De Schutter, and James T. Glover.

24           5. "Effective Date" means the first date by which all of the events and conditions specified  
25 in paragraph 6.1 of the Stipulation have been met and have occurred.

26           6. "Final" means: (i) the date of final affirmance on an appeal of the Judgment, the  
27 expiration of the time for a petition for or a denial of a writ of certiorari to review the Judgment and, if  
28 certiorari is granted, the date of final affirmance of the Judgment following review pursuant to that

1 grant; or (ii) the date of final dismissal of any appeal from the Judgment or the final dismissal of any  
2 proceeding on certiorari to review the Judgment; or (iii) if no appeal is filed, the expiration date of the  
3 time for the filing or noticing of any appeal of the Judgment.

4 7. "Individual Defendants" means Garry W. Rogerson, Wayne R. Moon, John G.  
5 McDonald, Elizabeth E. Tallett, Richard U. De Schutter, and James T. Glover.

6 8. "Judgment" means the judgment to be rendered by the Court, substantially in the form  
7 attached to the Stipulation as Exhibit B.

8 9. "Lead Counsel" means Robbins Geller Rudman & Dowd LLP, Bull & Lifshitz, LLP,  
9 and Levi & Korsinsky, LLP.

10 10. "Person" means an individual, corporation, partnership, limited partnership, limited  
11 liability company or partnership, association, joint stock company, estate, legal representative, trust,  
12 unincorporated association, government or any political subdivision or agency thereof, and any business  
13 or legal entity and their spouses, heirs, predecessors, successors, representatives, or assignees.

14 11. "Plaintiffs" means Hawaii Laborers Pension Fund, Stuart Kreisberg and Feival Gottlieb  
15 Plan-Administrator Feival Gottlieb Defined Benefit Pension Plan DTD 01-01-84.

16 12. "Plaintiffs' Counsel" means any counsel who have appeared for any plaintiff in the  
17 Action.

18 13. "Related Parties" shall collectively mean each Defendant's respective predecessors,  
19 successors-in-interest, parents, subsidiaries, affiliates, representatives, agents, trustees, executors, heirs,  
20 spouses, marital communities, assigns or transferees and any person or entity acting for or on behalf of  
21 any of them and each of them, and each of their predecessors, successors-in-interest, parents,  
22 subsidiaries, affiliates, representatives, agents, trustees, executors, heirs, spouses, marital communities,  
23 assigns or transferees and any person or entity acting for or on behalf of any of them and each of them  
24 (including, without limitation, any investment bankers, accountants, insurers, reinsurers or attorneys and  
25 any past, present or future officers, directors and employees of any of them).

26 14. "Released Claims" means the complete discharge, dismissal with prejudice on the  
27 merits, release and settlement of all known and Unknown Claims of every nature and description  
28 whatsoever, whether or not concealed or hidden, against the Released Persons that have been or could

1 have been asserted by Plaintiffs or any Member of the Settlement Class, including class, individual or  
2 other claims, in state or federal court, based upon, arising from, or related to the claims or allegations in  
3 the Action including, but not limited to, claims or allegations based upon, arising from, or related to the  
4 Acquisition, the Proxy Statement, and the supplemental disclosures contained in Form 8-K, dated  
5 September 25, 2009; *provided, however*, that the Released Claims shall not include the right of the  
6 Plaintiffs or any Member of the Settlement Class to enforce the terms of the Stipulation or any properly  
7 perfected claims for appraisal in connection with the Acquisition.

8 15. "Released Persons" shall collectively mean Defendants and each of their respective  
9 Related Parties.

10 16. "Settlement Class" means all Persons who owned Varian common stock at any time  
11 from July 27, 2009, through and including May 14, 2010, the date of the closing of the Acquisition,  
12 including any and all of their successors-in-interest, representatives, agents, trustees, executors, heirs,  
13 spouses, marital communities, assigns or transferees, and any person or entity acting for or on behalf of,  
14 or claiming under any of them, and each of them. Excluded from the Settlement Class are Defendants,  
15 members of the immediate family of any Individual Defendant, any entity in which a Defendant has or  
16 had a controlling interest and the legal representatives, heirs, successors or assigns of any such excluded  
17 person. Also excluded from the Settlement Class are those Persons who timely and validly request  
18 exclusion from the Settlement Class.

19 17. "Settlement Class Member" or "Member of the Settlement Class" mean a Person who  
20 falls within the definition of the Settlement Class as set forth above.

21 18. "Settling Parties" means, collectively, each of the Defendants and the Plaintiffs on behalf  
22 of themselves and the Members of the Settlement Class.

23 19. "Unknown Claims" means any claim, cause of action, damage or harm which the  
24 Plaintiffs and/or Settlement Class Members do not know or suspect to exist at the time of the release of  
25 the Released Persons which, if known by him, her or it, might have affected his, her or its settlement  
26 with and release of the Released Persons, or might have affected his, her or its decision not to object to  
27 this settlement. With respect to any and all Released Claims, the Settling Parties stipulate and agree  
28 that, upon the Effective Date, the Plaintiffs shall expressly, and each of the Settlement Class Members

1 shall be deemed to have, and by operation of the Judgment shall have, waived and relinquished, to the  
2 fullest extent permitted by law, the provisions, rights and benefits of California Civil Code §1542,  
3 which provides:

4           A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE  
5           CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR  
6           AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR  
7           HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH  
8           THE DEBTOR.

7 Upon the Effective Date, the Plaintiffs and each of the Settlement Class Members shall be deemed to  
8 have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights and  
9 benefits conferred by any law of any state or territory of the United States, any federal law or  
10 regulation, or any principle of common law or international or foreign law, which is similar, comparable  
11 or equivalent to California Civil Code §1542. The Plaintiffs and Settlement Class Members may  
12 hereafter discover facts in addition to or different from those which he, she or it now knows or believes  
13 to be true with respect to the subject matter of the Released Claims, but the Plaintiffs shall expressly  
14 have and each Settlement Class Member, upon the Effective Date, shall be deemed to have, and by  
15 operation of the Judgment shall have, fully, finally, and forever settled and released any and all  
16 Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether  
17 or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or  
18 equity now existing or coming into existence in the future, including, but not limited to, conduct which  
19 is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to  
20 the subsequent discovery or existence of such different or additional facts. The Settling Parties  
21 acknowledge, and the Settlement Class Members shall be deemed by operation of the Judgment to have  
22 acknowledged, that the foregoing waiver was separately bargained for and a material element of the  
23 settlement of which this release is a part.

24           20. "Varian" means Varian, Inc. and any of its predecessors, successors, parents,  
25 subsidiaries, divisions, or affiliates.

1 **VI. ORDER CERTIFYING A SETTLEMENT CLASS FOR PURPOSES OF**  
2 **SETTLEMENT**

3 On July 28, 2010, the Court certified the Settlement Class for purposes of settlement as  
4 defined above.

5 **VII. DISMISSAL AND RELEASES**

6 If the proposed settlement is approved, the Court will enter the Judgment. The Judgment will  
7 release the Released Claims as to the Released Persons.

8 The Judgment will provide that all Settlement Class Members shall be deemed to have released  
9 and forever discharged all Released Claims against all Released Persons, and will be barred from  
10 asserting any of the Released Claims in the future, unless the settlement is canceled or terminated  
11 pursuant to the terms of the Stipulation.

12 **VIII. CONDITIONS FOR SETTLEMENT**

13 The settlement is conditioned upon the occurrence of certain events. Those events include,  
14 among other things: (1) entry of the Judgment by the Court, as provided for in the Stipulation; and (2)  
15 expiration of the time to appeal from or alter or amend the Judgment. If, for any reason, any one of the  
16 conditions described in the Stipulation is not met, the Stipulation might be terminated and, if  
17 terminated, will become null and void, and the parties to the Stipulation will be restored to their  
18 respective positions prior to the settlement. If prior to the Settlement Hearing, Persons who otherwise  
19 would be Members of the Settlement Class have submitted timely requests for exclusion from the  
20 Settlement Class in accordance with the provisions of this Notice and such Persons' shares in the  
21 aggregate are in an amount greater than the amount specified in the separate Supplemental Agreement  
22 between the Settling Parties, the Defendants shall have, in their sole and absolute discretion, the option  
23 to terminate the Stipulation.

24 **IX. THE RIGHT TO BE HEARD AT THE HEARING**

25 Any Settlement Class Member who seeks to comment on any aspect of the settlement may  
26 appear and be heard at the Settlement Hearing. Any Settlement Class Member who seeks to submit a  
27 written notice of objection to the settlement must mail or hand deliver such objection so that it is  
28 received on or before Sep. 10, 2010, by the following:

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*Varian Shareholder Litigation*  
Notice Administrator  
c/o Gilardi & Co. LLC  
P.O. Box 8040  
San Rafael, CA 94912-8040

The notice of objection must demonstrate the objecting Person's membership in the Settlement Class, and contain a statement of the reasons for objection.

**X. EXCLUSION FROM THE SETTLEMENT CLASS**

You may request to be excluded from the Settlement Class. The request for exclusion must state: (1) your name, address and telephone number; (2) the number of shares of Varian common stock owned from July 27, 2009, through and including May 14, 2010, the date of the consummation of the Acquisition; and (3) that you wish to be excluded from the Settlement Class. TO BE VALID, A REQUEST FOR EXCLUSION MUST STATE ALL OF THE FOREGOING INFORMATION. YOUR EXCLUSION REQUEST MUST BE POSTMARKED ON OR BEFORE Sep. 10, 2010, and sent to the address listed below. If you submit a valid and timely request for exclusion, you will have no rights under the settlement, and shall not be bound by the Stipulation or the Judgment.

*Varian Shareholder Litigation*  
Notice Administrator  
c/o Gilardi & Co. LLC  
P.O. Box 8040  
San Rafael, CA 94912-8040

**XI. NOTICE TO PERSONS OR ENTITIES HOLDING RECORD OWNERSHIP ON BEHALF OF OTHERS**

If you hold or held any Varian common stock at any time from July 27, 2009, through and including May 14, 2010, the date of the consummation of the Acquisition, as nominee for a beneficial owner, then, within ten (10) calendar days after you receive this Notice, you must either: (1) send a copy of this Notice by first-class mail to all such Persons; or (2) provide a list of the names and addresses of such Persons to the Notice Administrator:

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*Varian Shareholder Litigation*  
Notice Administrator  
c/o Gilardi & Co. LLC  
P.O. Box 8040  
San Rafael, CA 94912-8040

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

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

**XII. EXAMINATION OF PAPERS**

This Notice is a summary and does not describe all of the details of the Stipulation. For full details of the matters discussed in this Notice, you may desire to review the Stipulation filed with the Court, which may be inspected during business hours, at the office of the Clerk of the Court, Santa Clara County Superior Court, Civil Division, 191 North First Street, San Jose, CA 95113.

For further information regarding this settlement you may contact: Robbins Geller Rudman & Dowd LLP, c/o Rick Nelson, Shareholder Relations, 655 West Broadway, Suite 1900, San Diego, California 92101, Telephone: 800/449-4900.

**DO NOT TELEPHONE THE COURT OR THE CLERK'S OFFICE REGARDING THIS NOTICE.**

DATED:     **JUL 28** 2010    

BY ORDER OF THE COURT  
STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA