

obtainable on the Internet. Plaintiff believes that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

NATURE OF THE ACTION

1. The names and addresses of the parties are set forth in ¶¶ 6, 8, 10, 11, *infra*. This is a federal securities class action on behalf of a class consisting of all persons other than defendants who purchased the common stock of Opnext pursuant and/or traceable to the Company's Registration Statement and Prospectus issued in connection with the Company's Initial Public Offering (the "IPO") on February 14, 2007, through February 13, 2008, seeking to recover damages caused by defendants' violations of federal securities laws and to pursue remedies under the Securities Act of 1933 (the "Securities Act").

JURISDICTION AND VENUE

2. The claims asserted herein arise under and pursuant to Sections 11 and 15 of the Securities Act (15 U.S.C. §§ 77k and 77(o)).

3. This Court has jurisdiction over the subject matter of this action pursuant to Section 22(a) of the Securities Act, 15 U.S.C. §77v(a).

4. Venue is proper in this Judicial District pursuant to Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a) because a substantial and material portion of the conduct complained of herein occurred in this District and/or certain Defendants reside and/or conduct business in this District.

5. In connection with the acts, conduct and other wrongs alleged in this complaint, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce,

including, but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities exchange.

PARTIES

6. Plaintiff [REDACTED] (“Plaintiff”) is a U.S. citizen and he resides in [REDACTED]

7. Plaintiff, as set forth in the accompanying certification, incorporated by reference herein, purchased Opnext stock pursuant to or traceable to the Company’s IPO and was economically damaged thereby.

8. Defendant Opnext is Delaware Corporation with its principal executive offices located at 1 Christopher Way, Eatontown, NJ 07724.

9. Opnext designs, manufactures, and markets optical modules and components that transmit and receive data, used in both telecommunications and data communications markets worldwide. It sells its products through its direct sales force, as well as through manufacturer representatives and distributors, primarily to telecommunications and data communications network systems vendors, as well as to companies that design and manufacture laser-based products. The Company’s common stock is listed on the NASDAQ under ticker “OPXT”.

10. Defendant Harry L. Bosco (“Bosco”) was at all relevant times herein the Company’s Director, President and Chief Executive Officer. Bosco’s office address is 1 Christopher Way, Eatontown, NJ 07724. No residence information is available.

11. Defendant Robert J. Nobile (“Nobile”) was at all relevant times herein the Company’s Chief Financial Officer and Senior Vice President of Finance. Nobile’s office address is 1 Christopher Way, Eatontown, NJ 07724. No residence information is available.

12. Bosco and Nobile are collectively referred to hereinafter as the “Individual Defendants.”

PLAINTIFF’S CLASS ACTION ALLEGATIONS

13. Plaintiff brings this action as a class action on behalf of himself and on behalf of all purchasers of the common stock of the Company issued pursuant to and/or traceable to the Company’s IPO on February 14, 2007, through February 13, 2008, pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) on behalf of a Class. Excluded from the Class are defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which defendants have or had a controlling interest.

14. The members of the Class are so numerous that joinder of all members would be impracticable. Over 19 million shares of Company’s common stock were sold in the IPO. The precise number of Class members is unknown to Plaintiff at this time but it is believed to be in the thousands. Members of the Class may be identified from records maintained by Opnext or its transfer agent and may be notified of the pendency of this action by mail, using a form of notice customarily used in securities class actions.

15. Plaintiff’s claims are typical of the claims of the members of the Class, as all members of the Class are similarly affected by defendants’ wrongful conduct in violation of federal law that is complained of herein.

16. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

17. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether the provisions of the Securities Act were violated by defendants' acts as alleged herein;

(b) whether documents, including the Registration Statement and Prospectus issued by defendants to the investing public omitted and/or misrepresented material facts about the Company and its business; and

(c) the extent to which members of the Class have sustained damages, and the proper measure of damages.

18. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to redress individually the wrongs done to them. There will be no difficulty in the management of this action as a class action.

SUBSTANTIVE ALLEGATIONS

19. On February 12, 2007, the Company filed with the SEC an amended registration statement on form S-1/A. This Registration Statement contained, *inter alia*, a Prospectus.

20. On February 14, 2007, the Company's Registration Statement and Prospectus became effective; the Company announced the pricing of the Company's IPO at \$15.00 per share for 16,909,375 shares of common stock; and announced the granting of an option to its underwriters to

purchase an additional 2,536,406 shares at the offering price. The Company's shares began publicly trading on the NASDAQ on February 15, 2007.

21. The Registration Statement and Prospectus contained the Company's financial statements for the fiscal year ended March 31, 2006 and the quarter and nine months ended December 31, 2006.

22. Certain representations made in the Company's Registration Statement and Prospectus issued in connection with the IPO were materially false, as demonstrated below:

- (a) the financial statements contained in the Registration Statement and Prospectus were materially inaccurate, as the Company's net income for the quarter-ended December 31, 2006 was overstated by nearly 27%, or \$700,000; and
- (b) the Company's net income for the nine months ended March 31, 2006 was overstated by approximately \$1.3 million.

23. The foregoing matters, all of which existed at the time of the IPO, were partially revealed in a Company announcement issued on February 13, 2008. The announcement states in relevant part:

Opnext Announces Expected Restatement of Financial Statements

Wednesday February 13, 6:00 am ET

EATONTOWN, N.J.--(BUSINESS WIRE)--Opnext, Inc. (NASDAQ:[OPXT](#) - [News](#)), a global leader in the design and manufacturing of optical modules and components, announced today that in the course of preparing the Company's financial statements for the quarter ended December 31, 2007, the Company has determined that errors occurred in the valuation of inventory consigned to one of its contract manufacturers and that, as a result, the Company's inventory and trade payables balances and the reported amounts of cost of goods sold and other income expense, net, were not properly reported for each of the fiscal years ended March 31, 2006 and March 31, 2007, and for the affected quarterly periods in each of those years.

The Company estimates that, as a result of the errors, the Company's net income was overstated by approximately \$1.8 million for the fiscal year ended March 31, 2007 and its

net loss was understated by approximately \$1.0 million for the fiscal year ended March 31, 2006. In addition, net income was overstated by approximately \$0.7 million for the three-month period ended December 31, 2006 and was understated by approximately \$0.1 million for the three-month period ended September 30, 2006, while net loss was understated by approximately \$0.5 million for the three-month period ended June 30, 2006. The Company expects to file an amendment to its Annual Report on Form 10-K for the fiscal year ended March 31, 2007 to restate the previously issued audited financial statements for the years ended March 31, 2007 and March 31, 2006. The Company also expects to file amendments to its Quarterly Reports on Form 10-Q for the quarters ended June 30, 2007 and September 30, 2007 to restate the previously issued comparative financial statements for the quarters ended June 30, 2006 and September 30, 2006, respectively. The previously issued comparative financial statements for the quarter and nine-month period ended December 31, 2006 will be restated in the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2007.

24. This announcement shocked the market and caused the Company's stock to fall \$.89 per share, or over 16%, to a closing price of \$4.65 on February 13, 2008, and an additional decline of 6.8%, or \$.32 per share, followed on February 14, 2008.

FIRST CLAIM

Violation of Section 11 of the Securities Act Against All Defendants

25. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein. This claim is not based on and does not sound in fraud.

26. This claim is brought by Plaintiff on his own behalf and on behalf of other members of the Class who acquired Opnext stock pursuant to or traceable to the Company's IPO during the Class Period. Each Class Member acquired his, her, or its shares pursuant to and/or traceable to, and in reliance on, the Registration Statement and Prospectus. Opnext is the issuer of the securities through the Registration Statement and Prospectus. The Individual Defendants are signatories of the Registration Statement and Prospectus.

27. Defendants owed to the purchasers of the stock obtained -- in connection with which the Registration Statement and Prospectus were issued -- the duty to make a reasonable and diligent investigation of the statements contained in the Registration Statement and Prospectus at the time they became effective to ensure that such statements were true and correct and that there was no omission of material facts required to be stated in order to make the statements contained therein not misleading.

28. None of the defendants made a reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the Registration Statement and Prospectus were true or that there was no omission of material facts necessary to make the statements made therein not misleading.

29. Defendants issued and disseminated, caused to be issued and disseminated, and participated in the issuance and dissemination of, material misstatements to the investing public that were contained in the Registration Statement and Prospectus, which misrepresented or failed to disclose, among other things, the facts set forth above. By reason of the conduct alleged herein, each defendant violated and/or controlled a person who violated Section 11 of the Securities Act.

30. Opnext is the issuer of the stock sold via the Registration Statement and Prospectus. As issuer of the stock, the Company is strictly liable to Plaintiff and the Class for the material misstatements and omissions therein.

31. At the times they obtained their shares of Opnext, Plaintiff and members of the Class did so without knowledge of the facts concerning the misstatements and omissions alleged herein.

32. This action is brought within one year after discovery of the untrue statements and omissions in and from the Registration Statement and Prospectus that should have been made and/or

corrected through the exercise of reasonable diligence, and within three years of the effective date of the Registration Statement and Prospectus.

33. By virtue of the foregoing, plaintiff and the other members of the class are entitled to damages under Section 11 as measured by the provisions of Section 11(e), from the defendants and each of them, jointly and severally.

SECOND CLAIM

Violations of Section 15 of the Securities Act Against the Individual Defendants

34. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein. This claim is not based on and does not sound in fraud.

35. This claim is asserted against the Individual Defendants, each of whom was a control person of Opnext during the relevant time period.

36. For the reasons set forth above in the First Claim, above, Opnext is liable to plaintiff and the members of the Class who purchased Opnext common stock in the IPO or in the aftermarket during the Class Period based on the untrue statements and omissions of material fact contained in the Registration Statement and Prospectus, pursuant to Section 11 of the Securities Act, and were damaged thereby.

37. The Individual Defendants were control persons of Opnext by virtue of, among other things, their positions as senior officers of the Company, wherefrom they were in positions to control and did control, issuance of the false and misleading statements and omissions contained in the Registration Statement and Prospectus.

38. None of the Individual Defendants made reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the Registration Statement and

Prospectus were accurate and complete in all material respects. Had they exercised reasonable care, they would have known of the material misstatements and omissions alleged herein.

39. This claim was brought within one year after the discovery of the untrue statements and omissions in the Registration Statement and Prospectus and within three years after Opnext common stock was sold to the Class in connection with the IPO.

40. By reason of the misconduct alleged herein, for which Opnext is primarily liable, as set forth above, the Individual Defendants are jointly and severally liable with and to the same extent as Opnext pursuant to Section 15 of the Securities Act.

WHEREFORE, plaintiff prays for relief and judgment, as follows:

- (a) Determining that this action is a proper class action, designating plaintiff as Lead Plaintiff and certifying plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure and designating plaintiff's counsel as Lead Counsel;
- (b) Awarding damages in favor of plaintiff and the other Class members against all defendants, jointly and severally, together with interest thereon;
- (c) Awarding plaintiff and the Class reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and
- (d) Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated: February 20, 2008