

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

In re CLARENT CORPORATION SECURITIES  
LITIGATION

Master File No. C-01-3361 CRB (JCS)

CLASS ACTION

This Document Relates To:

ALL ACTIONS.

Judge: The Honorable Charles R. Breyer

NOTICE OF CLASS ACTION

**TO: ALL PERSONS OR ENTITIES WHO ACQUIRED THE COMMON STOCK OF CLARENT CORPORATION (“CLARENT” OR THE “COMPANY”) BETWEEN APRIL 26, 2000 AND AUGUST 31, 2001, INCLUSIVE (THE “CLASS PERIOD”), AND WHO WERE INJURED THEREBY**

**THIS NOTICE MAY AFFECT YOUR RIGHTS.**  
**PLEASE READ THIS ENTIRE NOTICE CAREFULLY.**

**IF YOU DO NOT REQUEST TO BE EXCLUDED FROM THE CLASS BY FEBRUARY 14, 2005 AS DESCRIBED BELOW, YOU WILL BE BOUND BY THE DECISIONS AND OUTCOME OF THIS LAWSUIT.**

**I. Description And Status Of The Lawsuit**

The purpose of this Notice is to inform you of a class action lawsuit that is now pending in the United States District Court for the Northern District of California (the “Court”). The Class certified by Order of the Court is identified below, at Section II (the “Class”).

In this lawsuit (the “Action”), Lead Plaintiffs Otter Creek Partners I Limited Partnership and Otter Creek International Limited (collectively “Otter Creek Partners” or “Lead Plaintiff”) allege that defendants violated federal law, the Securities Exchange Act of 1934 (“Exchange Act”), by making materially false and misleading statements and omissions regarding the financial condition of Clarent Corporation (“Clarent” or the “Company”). Lead Plaintiff contends that investors were misled by statements which appeared in press releases and in documents filed with the Securities and Exchange Commission (“SEC”).

Lead Plaintiff contends that the Clarent financial statements were false due to accounting and financial irregularities including, but not limited to, improper revenue recognition. The Company has restated its financial results for fiscal 2000, the four quarters of 2000, and the first two quarters of 2001. The Lead Plaintiff’s allegations, as asserted in the Complaints, are described in more detail below. The defendants against whom the Action has not been stayed have denied allegations of wrongdoing asserted against them and have asserted affirmative defenses. At this stage of the litigation, the Court has not yet ruled on whether any of the Lead Plaintiff’s allegations have merit.

**A. The Appointment Of The Lead Plaintiff And Lead Counsel**

In or about September 2001, various securities fraud cases were filed alleging violations of Sections 10(b) and 20(a) of the Exchange Act, on behalf of investors who purchased or otherwise acquired shares of Clarent’s common stock during the period of the fraud. Pursuant to the Private Securities Litigation Reform Act of 1995 (“PSLRA”), plaintiffs in the first-filed action published a notice of pendency of the action via the *Business Wire*, advising investors of the existence of the lawsuit, describing the claims asserted, and informing them of the right to move for appointment of lead plaintiff. Pursuant to the PSLRA, the Court consolidated the actions and appointed Otter Creek Partners as Lead Plaintiff over the consolidated cases.

**B. The Complaints**

The Chang and Chiang Complaint

On June 21, 2002, Lead Plaintiff filed the First Amended And Consolidated Class Action Complaint For Violation Of The Federal Securities Laws (“First Amended Complaint”) against Clarent and several of its officers and directors, including Jerry Chang (“Chang”) and Matthew Chiang (“Chiang”). Lead Plaintiff filed the Second Amended And Consolidated Class Action Complaint For Violation Of Federal Securities Laws (“Second Amended Complaint”) on March 31, 2003, asserting violations of Sections 10(b) and 20(a) of the Exchange Act, and SEC Rule 10b-5 against Chang, Chiang, and other former Clarent officers and directors. Because Clarent has filed for bankruptcy and is protected against litigation by the automatic stay provisions of the United States Bankruptcy Code, Lead Plaintiff did not name Clarent as a defendant in the Second Amended Complaint.

The Second Amended Complaint alleges that Chang and Chiang orchestrated a fraudulent scheme, and knew of or, but for their deliberate recklessness, should have known of the material misstatement of Clarent's financial results during the Class Period. The Second Amended Complaint further alleges control person claims under Section 20(a) of the Exchange Act against Chang and Chiang, by virtue of their positions as CEO and President of Sales for the Asia Pacific Region, respectively. The Second Amended Complaint further alleges that Lead Plaintiff and other members of the Class purchased or otherwise acquired Clarent common stock during the Class Period at prices artificially inflated as a result of the dissemination of materially false and misleading financial statements of Clarent, and/or as a result of concealment of material information.

#### The Ernst & Young Complaint

On October 22, 2003, Lead Plaintiff filed a Class Action Complaint For Violations Of The Federal Securities Laws against Ernst & Young LLP ("E&Y"), and Clarent's primary legal advisor and law firm, on behalf of itself and other Subclass Members (the "E&Y Complaint"). ("Second Amended Complaint" and "E&Y Complaint" are referred to collectively as the "Complaints.") By Order dated January 16, 2004, the Court confirmed that Otter Creek Partners is the lead plaintiff of the consolidated action, with its choice of counsel, the law firm of Bernstein Litowitz Berger & Grossmann LLP as Lead Counsel.

The E&Y Complaint alleges that E&Y, as Clarent's outside auditor, made, or substantially participated in making, false and misleading statements included in Clarent's press releases and SEC filings, and that it knew of or, but for its deliberate recklessness, should have known of the material false and misleading statements, from March 29, 2001 through August 31, 2001, inclusive (the "Subclass Period"). The E&Y Complaint further alleges that Lead Plaintiff and other members of the Subclass purchased or otherwise acquired Clarent common stock during the Subclass Period at prices artificially inflated as a result of the dissemination of materially false and misleading financial statements of Clarent, and/or as a result of concealment of material information.

### **C. Substantive Motions**

#### Motions To Dismiss The Chang And Chiang Complaint

Clarent and Chang answered the First Amended Complaint, and other individual defendants moved to dismiss the First Amended Complaint. The Court denied defendants' motions to dismiss regarding the Section 20(a) claims and granted Lead Plaintiff leave to amend regarding the Section 10(b) claims. Lead Plaintiff filed the Second Amended Complaint on March 31, 2003 against Chang, Chiang, and other individual defendants. Chang and another defendant answered the Second Amended Complaint, and default was entered as to Chiang.

#### Motions To Dismiss And For Summary Judgment As To The E&Y Complaint

On February 17, 2004, E&Y filed a motion to dismiss the claims in the E&Y Complaint against E&Y, based on the statute of limitations and for failure to adequately plead E&Y's scienter. Pursuant to a hearing held on October 22, 2004, the Court denied E&Y's motion to dismiss in its entirety.

On December 3, 2004, E&Y filed a motion for summary judgment, requesting that the Court find that there are no disputed issues of material fact, and E&Y is entitled to judgment as a matter of law. Lead Plaintiff filed its opposition to E&Y's motion on December 22, 2004. The Court has not yet ruled on E&Y's motion for summary judgment. A hearing on the motion is currently scheduled for January 7, 2005.

### **D. The Order Certifying the Class**

By Order dated November 23, 2004, the Court certified this lawsuit to proceed as a Class Action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

### **E. Discovery**

The Action has been litigated actively since it was filed. The Orders entered by the Court in the Action can be reviewed, during normal business hours, at the Office of the Clerk of the Court at the United States District Court Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102.

Fact discovery in the Action largely concluded on December 15, 2004. Expert discovery is scheduled to largely conclude on or about January 11, 2005.

### **F. Trial Date**

The jury trial in this Class Action is scheduled to begin on January 24, 2005.

## **II. The Class**

With respect to the claims against Chang and Chiang, the Class consists of all persons and entities who acquired the common stock of Clarent between April 26, 2000 and August 31, 2001, inclusive (the "Class Period"), and who were injured thereby (the "Class").

With respect to the claims against E&Y, there is a subclass consisting of all persons and entities who acquired the common stock of Clarent between March 29, 2001 and August 31, 2001, inclusive (the "Subclass Period"), and who were injured thereby (the "Subclass").

Excluded from the Class and Subclass are: defendants; members of the families of each of the defendants; any parent, subsidiary, affiliate, partner, officer, executive or director of any defendant; any entity in which any such excluded person has a controlling interest; and the legal representatives, heirs, successors and assigns of any such excluded person or entity.

### **III. Procedures**

This Notice is being sent to notify you of the pendency of the Class Action against Chang, Chiang, and E&Y. Lead Plaintiff, on behalf of itself, the Class, and Subclass, has entered into tentative settlement agreements with remaining defendants. A notice regarding claims against those defendants will be sent separately.

In the event any settlement is reached or a Judgment is obtained against E&Y, Chang, or Chiang, only persons who do not exclude themselves from the Class at this time will be eligible to participate in a distribution of the settlement or Judgment proceeds. If you exclude yourself from the Class, you will not be eligible to participate in any settlement reached on behalf of the Class or in any Judgment obtained through trial. Section V of this Notice describes your rights as a Class Member.

In the event of a settlement, Lead Plaintiff will be required to obtain preliminary approval of such a settlement from the Court, including preliminary approval of a proposed plan of allocation of settlement proceeds. After preliminary approval is obtained, the Lead Plaintiff must then send a Notice to Class Members, describing the proposed settlement and plan of allocation and the reasons for each. The Notice will provide a period of time for Class Members with a second opportunity to request to be excluded from the Class, but there can be no assurance that Class Members will be afforded such a second opportunity. The Court will only give final approval to a proposed settlement and plan of allocation if the Court finds them to be fair, adequate, and reasonable to the members of the Class.

Similarly, should the Class obtain a Judgment against any defendant, the Lead Plaintiff will be required (a) to obtain preliminary approval from the Court of a proposed plan of allocation; (b) to send a Notice to Class Members describing the proposed plan and the reasons for it, which Notice will provide a period of time for Class Members to submit objections to the Court; and (c) to seek final approval from the Court, which may only approve a proposed plan if the Court finds it to be fair and reasonable.

### **IV. Lead Counsel's Fee Agreement With The Lead Plaintiff**

Lead Counsel agreed to undertake this litigation on an entirely contingent basis, meaning that Lead Counsel is not compensated unless there is a recovery achieved for the Class. If there is a recovery for the Class, Lead Counsel may make an application to be compensated and reimbursed out of that recovery. Lead Plaintiff has negotiated a Retainer Agreement with Lead Counsel which provides a fee agreement grid which is a function of both the timing and size of the recovery.

Any application for an award of attorneys' fees and reimbursement of litigation expenses by Lead Counsel will be subject to Court approval. Before any such application for fees and expenses is determined, Lead Counsel will be required to: (a) obtain preliminary approval for such application from the Court; (b) send a Notice to Class Members that describes the application, which Notice will provide a period of time for Class Members to submit objections to the Court; and (c) seek final approval from the Court, which may only award attorneys' fees and reimbursement of expenses to Lead Counsel if the Court finds such fees and expenses to be fair and reasonable.

### **V. Your Rights As A Class Member**

Except for persons excluded from the Class, if you purchased or acquired the common stock of Clarent during the Class Period and were injured as a result, you are a Class Member. If you are a Class Member, you have the right to decide whether to remain a member of the Class. You may not elect to remain in the Class for purposes of asserting certain claims brought by the Lead Plaintiff and also elect to be excluded from the Class for purposes of asserting, in an individual capacity, other claims arising from the facts alleged in the Complaints.

**IF YOU CHOOSE TO REMAIN A CLASS MEMBER, YOU DO NOT NEED TO DO ANYTHING AT THIS TIME.**  
**IF YOU DO NOTHING, YOU WILL AUTOMATICALLY BE INCLUDED IN THE CLASS.**

If you choose to remain in the Class, you will be entitled to your share of any money awarded to the Class either through a settlement with the defendants, or through a trial or judgment of the Court. If the Court dismisses one or more of the claims against any defendant, or if the defendants prevail at trial, you will be bound by that decision and all prior decisions of the Court. In other words, you will not be allowed to sue for your individual claims.

If you choose to remain in the Class, you will not be personally responsible for the fees of the Lead Counsel or the costs they incur in representing you as a Class Member. As noted above, Lead Counsel has agreed to represent the Class on a contingent basis, which means it will be awarded fees and costs only if it succeeds in obtaining money from one or more of the defendants. Any such contingent attorney's fees will be awarded by the Court from the settlement or Judgment they obtain on behalf of the Class, if any.

If you choose to remain in the Class, you may arrange to have your own attorney enter an appearance on your behalf in the Action if you so desire. If you appear in the Action through your own counsel, you will be solely responsible for that attorney's fees and expenses.

If you choose to remain in the Class, you will receive another notice concerning any settlement that may be reached with any of the defendants, or after any Judgment is obtained against the defendants.

If you want to attempt to pursue a claim on your own outside of the Class Action, and that claim arises from the facts alleged in the Complaints, then you must complete and submit a written request for exclusion from the Class, as described below.

If you choose to be excluded from the Class, you must submit a written request for exclusion that includes: (1) your name, address, telephone number, fax number, and e-mail address, if available, and (2) a list of all purchases and sales of common stock of Clarent during the Class Period, if possible. In your request for exclusion you should state: "I wish to be excluded from the class," or similar words. You must sign the request for exclusion. **Your mailed request for exclusion must be postmarked no later than February 14, 2005.** It must be mailed to:

In re Clarent Corporation Securities Litigation  
c/o The Garden City Group, Inc., Settlement Administrator  
Attn.: Exclusion Dept.  
P.O. Box 91144  
Seattle, WA 98111-9244  
Toll-Free: 1-800-331-4417

Note: If you are requesting exclusion on behalf of an entity, trust, or the like, you must state your position and explain the basis for your authority to act on behalf of that entity, trust, or the like.

If you choose to be excluded from the Class, you will not be bound by the prior decisions of the Court in this Action or by any Judgment in this Action against the defendants, whether favorable or unfavorable, and you will not be entitled to share in any money that is distributed to the Class. If you choose to pursue a lawsuit on your own, you will be responsible personally for any fees and costs that your individual attorney charges you.

**VI. Please Keep Your Address Current**

If you should change your address, or if this Notice was not mailed to your correct address, you should immediately provide your current address to the Administrator for the Clarent Corporation Securities Litigation, as identified below, by letter, fax, or e-mail to ensure that you receive future communications about this lawsuit. If the Administrator does not have your correct address, you might not receive notice of important developments in this Class Action and you might not receive your share of any money recovered by the Class.

**VII. Special Notice To Nominees**

If you acquired common stock of Clarent, between April 26, 2000 and August 31, 2001 for the beneficial interest of a person or entity other than yourself, within ten (10) days after you receive this Notice, you must either: (a) send a copy of this Notice by first class mail to all such Persons; or (b) provide a list of the names and addresses of such Persons to the Administrator:

In re Clarent Corporation Securities Litigation  
c/o The Garden City Group, Inc.  
Administrator  
P.O. Box 91144  
Seattle, WA 98111-9244  
Toll-Free: 1-800-331-4417

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

**VIII. Additional Information**

This Notice gives only a summary of this Action, the claims asserted by the Lead Plaintiff, and the positions taken by the defendants. For more detailed information, you may review the pleadings filed by Lead Counsel and Defendants' Counsel and the written decisions and opinions issued by the Court in this Action during normal business hours, at the Office of the Clerk of the Court at the United States District Court Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102.

If you have any questions about the Action, you may contact Lead Counsel by writing:

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**DO NOT WRITE OR TELEPHONE THE COURT REGARDING THIS NOTICE.**

Dated: January 6, 2005

THE HONORABLE CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE