

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE AVALANCHE
BIOTECHNOLOGIES
SECURITIES LITIGATION.

Master File No. [15-cv-03185-JD](#)

**ORDER RE LEAD PLAINTIFF AND
COUNSEL; AMENDED SCHEDULING
ORDER**

Re: Dkt. Nos. 13, 17, 21, 26, 27

The Court issues these orders in this consolidated securities class action. The orders apply in the three cases (15-cv-3185, 15-cv-3231, 15-cv-3281) that have been consolidated for pretrial purposes under this master docket. Dkt. No. 48 ¶¶ 1-2.

I. APPOINTMENT OF LEAD PLAINTIFF AND LEAD COUNSEL

Putative class members filed five competing motions seeking appointment as lead plaintiff under the Private Securities Litigation Reform Act (“PSLRA”), 15 U.S.C. § 78u-4(a)(3)(B)(i). Dkt. Nos. 13, 17, 21, 26, and 27. Two parties -- Srikanth Dropati and the Beaver County Employees Retirement Fund -- have withdrawn their motions and no longer seek to be lead plaintiff. Dkt. Nos. 43, 61. Two other proposed lead plaintiffs -- a group consisting of Citadel Financial Advisory Ltd. and Over Atlantic Investments, and Gerard Warren -- have conceded that they do not have the largest financial interest in the action, though still willing to serve if requested. Dkt. Nos. 49, 44. Overall, the parties involved in the five competing motions recognize Arpat Bachhawat as “the most adequate plaintiff” under the PSLRA. They agree Bachhawat has the largest financial interest in the litigation under 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I), and do not object that he meets the requirements of Federal Rule of Civil Procedure 23, including typicality and adequacy, for this litigation. Dkt. Nos. 43, 44, 49, 54. At

1 the hearing, no objections were raised. Consequently, the Court appoints Arpan Bachhawat as
2 lead plaintiff in the consolidated securities class action.

3 Bachhawat requests that the Court appoint the law firm of Faruqi & Faruqi to represent the
4 class as lead counsel, pursuant to 15 U.S.C. § 78u-4(a)(3)(B)(v). Dkt. No. 26 at 9. All objections
5 from other parties having been withdrawn, *see* Dkt. No. 54, and because no objections were raised
6 at the hearing, the Court will allow Bachhawat's choice of counsel. Dkt. No. 26 is granted, and
7 the other motions, Dkt. Nos. 17 and 21, are denied, without prejudice to renewal in the event that
8 Bachhawat should ever become unwilling or unable to serve as lead plaintiff.

9 **II. AMENDED SCHEDULING ORDER**

10 The Court revises the schedule for this case. Dkt. No. 48. Lead plaintiff is ordered to file
11 a consolidated amended complaint by January 29, 2016. Defendants are to respond to the
12 consolidated amended complaint by February 19, 2016. If defendants file a motion to dismiss,
13 plaintiff's response is due by March 11, 2016, and any reply is due by March 25, 2016. These
14 dates are firm and will not be continued. The Court will then decide whether to set a hearing on
15 the motion.

16 The consolidated amended complaint will be the operative complaint and supersede all
17 other complaints filed in each of the underlying actions that were consolidated into this case.
18 Defendants need not respond to those prior complaints.

19 Pursuant to the PSLRA and the Federal Rules of Civil Procedure, and for the sake of
20 clarity and efficient case management, plaintiff is directed to set out in chart form its securities
21 fraud allegations under the following headings on a numbered, statement-by-statement basis:
22 (1) the speaker(s), date(s), and medium; (2) the false and misleading statements; (3) the reasons
23 why the statements were false and misleading when made; and (4) the facts giving rise to a strong
24 inference of scienter. An exemplar can be found at Docket Number 111 in *In re Mellanox*
25 *Technologies, Ltd. Securities Litigation*, Case No. 13-cv-4909. The chart may be attached to or

26 ///

27 ///


28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

contained in the consolidated complaint, but in any event will be deemed to be a part of the complaint.

IT IS SO ORDERED.

Dated: December 17, 2015



JAMES DONATO
United States District Judge