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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 IN RE MAXWELL TECHNOLOGIES ) Lead Case No. 13-CV-966-BEN (RBB)  
11 INC., DERIVATIVE LITIGATION, )  
12 This Document Relates To: ) (Derivative Action)  
13 ALL ACTIONS. ) Hon. Roger T. Benitez  
14

15 **NOTICE OF PENDENCY AND PROPOSED**  
16 **SETTLEMENT OF SHAREHOLDER DERIVATIVE ACTIONS**

17 **TO: ALL RECORD OR BENEFICIAL OWNERS OF COMMON STOCK OF**  
18 **MAXWELL TECHNOLOGIES, INC. AS OF DECEMBER 10, 2014:**

19 **PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. IT**  
20 **CONTAINS IMPORTANT INFORMATION ABOUT YOUR LEGAL RIGHTS.**

21 **THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF**  
22 **SHAREHOLDER DERIVATIVE AND OTHER ACTIONS (THE “ACTIONS”)**  
23 **AND CLAIMS ASSERTED ON BEHALF OF MAXWELL TECHNOLOGIES,**  
24 **INC. (“MAXWELL” OR THE “COMPANY”).**

25 **IF THE COURT APPROVES THE SETTLEMENT AND DISMISSAL OF THE**  
26 **ACTIONS, SHAREHOLDERS OF MAXWELL WILL BE FOREVER BARRED**  
27 **FROM CONTESTING THE APPROVAL OF THE PROPOSED SETTLEMENT**  
28 **AND FROM PURSUING THE RELEASED CLAIMS.**

29 **THESE ACTIONS ARE NOT “CLASS ACTIONS.” THUS, THERE IS NO**  
30 **COMMON FUND UPON WHICH YOU CAN MAKE A CLAIM FOR A**  
31 **MONETARY PAYMENT.**

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**PURPOSE OF THIS NOTICE**

This Notice of Pendency and Proposed Settlement of Shareholder Derivative and Other Actions (the “Notice”) is provided to Maxwell stockholders pursuant to an order of the United States District Court for the Southern District of California (the “Court”). This is not a solicitation from a lawyer.

The purpose of this Notice is to advise you that, pursuant to the Court’s Preliminary Approval and Scheduling Order, a hearing will be held on March 16, 2015 at 10:30 a.m., before the Honorable Roger T. Benitez, Edward J. Schwartz United States Courthouse, Courtroom 5A, Suite 5135, 221 West Broadway, San Diego, CA 92101, (or at such a date and time as the Court may direct without further notice) (the “Settlement Hearing”) to determine whether: (i) the terms of a proposed settlement (the “Settlement”) of the Actions as described below are fair, reasonable, and adequate, and in the best interests of Maxwell; (ii) Plaintiffs’ motion for an award of attorneys’ fees and expenses should be approved; and (iii) the service awards to Plaintiffs, as described below, should be approved.

The terms and conditions of the proposed Settlement are summarized in this Notice and set forth in full in the Stipulation. You have an opportunity to be heard at this hearing.

The Court has not determined the merits of Plaintiffs’ claims or Defendants’ defenses. By this Notice, the Court does not express any opinion as to the merits of any claim or defense asserted by any party in the Actions.

**BACKGROUND OF THE ACTIONS**

On April 11, 2013, Plaintiff Evan Warsh filed *Warsh v. Schramm*, Case No. 37-2013-00043884-CU-BT-CTL, a shareholder derivative action, in the Superior Court of California, San Diego County (the “State Court”). On April 18, 2013, Plaintiff Stephen Neville filed a substantially similar shareholder derivative complaint on behalf of Maxwell in the State Court, *Neville v. Cortes*, Case No. 37-2013-00044911-CU-CT-CTL. These two actions were consolidated by the State Court (the “State Derivative Action”). On April 23, 2013, Plaintiff Walter Kienzle filed *Kienzle v. Schramm et al.*, Case No. 13-CV-966, a substantially similar derivative action on behalf of Maxwell. On May 7, 2013, Plaintiff Sameer Agrawal filed *Agrawal v. Cortes et al.*, Case No. 13-CV-1084, another substantially similar derivative action on behalf of Maxwell. The *Kienzle* and *Agrawal* cases were consolidated as *In re Maxwell Technologies, Inc. Derivative Litigation*, Case No. 13-CV-966 (the “Federal Derivative Action”). Ultimately, the State

1 Derivative Action was stayed in favor of the Federal Derivative Action by order of the  
2 State Court dated November 1, 2013. On November 14, 2013, Plaintiff Neville sued in  
3 the State Court for a writ of mandamus to force Maxwell to produce documents in  
4 response to his demand to inspect the Company's books and records pursuant to Cal.  
Corp. Code § 1601 (the "Cal. Corp. Code § 1601 Action").

5 The Actions alleged, among other things, that since April 28, 2011 and/or  
6 thereafter, the individual defendants breached their fiduciary duties as directors and/or  
7 officers of Maxwell by causing the Company to violate federal and state law regarding  
8 the representations made by Maxwell to the public regarding its consolidated financial  
9 statements as they related to the recognition of certain of the Company's revenues, and  
10 by knowingly or recklessly failing to implement or maintain effective internal controls to  
11 ensure that the Company complied with applicable laws and regulations. The State and  
Federal Derivative Actions asserted claims for, among other things, breach of fiduciary  
duty and unjust enrichment under Delaware law. The Actions sought damages and  
injunctive relief.

12 On January 30, 2014, the Plaintiffs filed a Verified Consolidated Shareholder  
13 Derivative Complaint in the Federal Derivative Action. Defendants in the Federal  
14 Derivative Action filed motions to dismiss on March 6, 2014, which Plaintiffs opposed  
15 on April 4, 2014. The Federal Court granted Maxwell's motion to dismiss for failure to  
16 plead demand futility on May 28, 2014, and denied the Individual Defendants' motions  
17 to dismiss as moot. Plaintiffs in the Federal Derivative Action then filed a Verified  
18 Amended Consolidated Shareholder Derivative Complaint ("Amended Consolidated  
19 Complaint") on July 10, 2014. Maxwell and the Individual Defendants filed motions to  
20 dismiss on August 18, 2014 which have not yet been adjudicated. On November 1,  
2013, the State Derivative Action was stayed in favor of the Federal Derivative Action  
21 by Court order. On January 25, 2014, Maxwell filed a demurrer seeking dismissal of the  
Cal. Corp. Code § 1601 Action. On July 18, 2014, Maxwell's demurrer was denied and  
a trial date was scheduled for April 10, 2015.

22 The Individual Defendants have denied and continue to deny each and all of the  
23 claims alleged or asserted in the Actions. The Individual Defendants have expressly  
24 denied and continue to deny all charges of wrongdoing or liability against them and  
25 maintain that at all times they appropriately and in good faith fulfilled their fiduciary  
26 duties to the Company and its shareholders and complied with all applicable laws and  
27 regulations.  
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1 **THE SETTLEMENT DISCUSSIONS**

2 In July 2014, Plaintiffs, Maxwell, and the Individual Defendants first discussed the  
3 possibility of reaching an informal resolution of the cases through mediation, and  
4 ultimately agreed to participate in a mediation in New York, New York before JAMS  
5 mediator Jed D. Melnick, Esq. In advance of the mediation, Plaintiffs’ Counsel  
6 submitted a detailed settlement demand on July 21, 2014, which outlined a proposal for  
7 informal resolution of the matter. Maxwell responded to this settlement demand on  
8 August 8, 2014. Plaintiffs, Maxwell, and the Individual Defendants also exchanged  
9 confidential mediation briefs on August 7, 2014.

10 Plaintiffs, Maxwell, and the Individual Defendants participated in an all-day  
11 mediation before Mr. Melnick on August 21, 2014. Substantial negotiations took place  
12 throughout the day, extensive drafts of settlement offers and counteroffers were  
13 exchanged, and the mediation continued well into the evening. At the end of the  
14 mediation, Plaintiffs, Maxwell, and the Individual Defendants reached agreement on the  
15 substantive terms of the settlement. Plaintiffs, Maxwell, and the Individual Defendants  
16 continued their negotiations in the weeks following the mediation and reached agreement  
17 on other terms concerning the settlement, but never reached any agreement regarding any  
18 attorneys’ fees or costs to Plaintiffs’ counsel for the benefits procured by the Settlement.

19 On September 19, 2014, the Plaintiffs, Maxwell, and the Individual Defendants  
20 signed a Memorandum of Understanding (“MOU”) to settle the Actions. As  
21 indicated above, Plaintiffs, Maxwell, and the Individual Defendants have not yet  
22 reached an agreement on attorneys’ fees to be paid to Plaintiffs’ Counsel for the  
23 benefit conferred upon Maxwell through the settlement. Plaintiffs intend to seek an  
24 award of attorneys’ fees and costs from the Court in an amount not to exceed \$1.5  
25 million, and Maxwell and the Individual Defendants have the right to oppose the  
26 amount of the fees and costs sought. In addition, Plaintiffs’ Counsel may apply to the  
27 Court for a service award of up to \$2,500 for each of the four Plaintiffs, only to be  
28 paid upon Court approval, in recognition of those Plaintiffs’ participation and effort  
in the prosecution of the Actions (the “Service Awards”). The Service Awards, if  
approved by the Court, shall be paid to Plaintiffs from the Fee and Expense Amount.

29 **SUMMARY OF SETTLEMENT TERMS**

30 Pursuant to the settlement of the Actions, after the Judgment becomes final,  
31 Maxwell will implement the corporate governance terms identified in Exhibit A to the  
32 Stipulation (the “Corporate Governance Reforms”) in accordance with the terms of  
33 Exhibit A. The full text of the Corporate Governance Terms may be found at

1 <http://investors.maxwell.com/phoenix.zhtml?c=94560&p=irol-IRHome> and at  
2 [www.johnsonandweaver.com](http://www.johnsonandweaver.com), [www.bottinilaw.com](http://www.bottinilaw.com), and [www.hfesq.com](http://www.hfesq.com). Specifically,  
3 Maxwell has made improvements to the Company’s policies and procedures concerning  
4 the Company’s compliance with applicable laws and regulations, as well as enhancing  
5 Board oversight of the Company’s compliance function. These changes and  
6 enhancements were made, in part, to address the allegations in the Actions.

7 The Settlement calls for Plaintiffs (on behalf of themselves and derivatively, on  
8 behalf of Maxwell) to release all Released Claims against the Released Persons, as  
9 defined in the Stipulation. The term “Released Claims” collectively means any and all  
10 claims for relief (including “Unknown Claims” as defined in the Stipulation), rights,  
11 demands, causes of action, liabilities, debts, obligations, matters, issues, and suits of  
12 every nature and description whatsoever, including without limitation, claims for  
13 negligence, gross negligence, breach of fiduciary duty or corporate waste, whether  
14 known or unknown, contingent or absolute, matured or unmatured, discoverable or  
15 undiscoverable, whether or not concealed or hidden, whether based on federal, state,  
16 local, statutory, foreign, or common law or any other law, rule, or regulation, including  
17 Unknown Claims, that have been alleged or asserted or could have been alleged or  
18 asserted in any pleading or forum by Plaintiffs, or any other shareholder of Maxwell,  
19 derivatively on behalf of Maxwell against any Released Persons (as defined in the  
20 Stipulation) arising from or relating to the facts, events, transactions, acts, disclosures,  
21 statements, alleged omissions or failures to act, or any other circumstance alleged, set  
22 forth or referred to by Plaintiffs in the Actions. Excluded from the term “Released  
23 Claims” are all claims alleged in the Federal Securities Class Action and claims to  
24 enforce the Settlement.

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**PLAINTIFFS’ COUNSEL’S POSITION CONCERNING SETTLEMENT**

29 Plaintiffs’ Counsel believe that the Actions have substantial merit, and Plaintiffs’  
30 entry into the Stipulation is not intended to be and shall not be construed as an admission  
31 or concession concerning the relative strength or merit of the claims alleged in the  
32 Actions. However, Plaintiffs and their counsel recognize and acknowledge the  
33 significant risk, expense, and length of continued proceedings necessary to prosecute the  
34 Actions against the Individual Defendants through trial and through possible appeals.  
35 Plaintiffs’ Counsel also have taken into account the uncertain outcome and the risk of  
36 any litigation, especially in complex cases such as the Actions, as well as the difficulties  
37 and delays inherent in such litigation.

38 Plaintiffs’ Counsel have conducted an extensive investigation including reviewing  
and analyzing numerous corporate filings by the Company with the SEC, other related

1 publicly available information, and thousands of pages of non-public confirmatory  
2 discovery documents from Defendants. Plaintiffs' Counsel also analyzed the Company's  
3 corporate governance practices. Based on their thorough review and analysis of the  
4 relevant facts, allegations, defenses, and controlling legal principles, Plaintiffs' Counsel  
5 believe that the Settlement set forth in the Stipulation is fair, reasonable, and adequate,  
6 and confers substantial benefits upon Maxwell and its shareholders. Based upon  
7 Plaintiffs' Counsel's evaluation, the Plaintiffs have determined that the Settlement is in  
8 the best interests of Maxwell and its shareholders and have agreed to settle the Actions  
9 upon the terms and subject to the conditions set forth in the Stipulation.

### 10 **DEFENDANTS' POSITION CONCERNING SETTLEMENT**

11 The Individual Defendants have denied and continue to deny that they have  
12 committed, threatened, or attempted to commit, any violations of law, or breached any  
13 duty owed to Plaintiffs, Maxwell, or its shareholders. Without admitting the validity of  
14 any allegations or assertions made in any of the Actions, or any liability with respect  
15 thereto, however, the Individual Defendants have concluded that it is desirable that the  
16 claims against them be settled on the terms reflected in the Stipulation. Further, the  
17 Individual Defendants and Maxwell are entering into this Settlement because it will  
18 eliminate the uncertainty, distraction, disruption, burden, risk, and expense of further  
19 litigation. In addition, Maxwell acknowledges that the Settlement confers benefits on  
20 Maxwell.

### 21 **NOTICE OF HEARING ON PROPOSED SETTLEMENT**

22 A Settlement Hearing will be held on March 16, 2015 at 10:30 a.m., before the  
23 Honorable Roger T. Benitez, Edward J. Schwartz United States Courthouse, Courtroom  
24 5A, Suite 5135, 221 West Broadway, San Diego, CA 92101 (or at such a date and time  
25 as the Court may direct without further notice), for the purpose of determining: (a)  
26 whether the proposed Settlement, as set forth in the Stipulation, should be approved by  
27 the Court as fair, reasonable, and adequate to Maxwell and its shareholders, including  
28 Plaintiffs; (b) whether the Notice fully satisfied the requirements of F.R.C.P. 23.1 and  
due process; (c) whether the Judgment should be entered dismissing the Federal  
Derivative Action with prejudice and directing Plaintiffs to file dismissals with prejudice  
of the State Derivative Action and Cal. Corp. Code § 1601 Action as against the  
Individual Defendants and the Company pursuant to the Stipulation and releasing the  
Released Persons from the Released Claims; (d) whether the payment of the Fee and  
Expense Award and Service Awards should be approved; and (e) any other matters that  
come before the Court.

1 The Court may adjourn the Settlement Hearing by oral or other announcement at  
2 such hearing or any adjournment without further notice of any kind. The Court may  
3 approve the Settlement with or without modification, enter the Judgment, and order the  
4 payment of the Fee and Expense Amount without further notice of any kind.

5 **THE RIGHT TO BE HEARD AT THE SETTLEMENT HEARING**

6 Any Maxwell shareholder may appear and show cause, if he, she, or it has any  
7 reason why the Settlement of the Actions embodied in the Stipulation should not be  
8 approved as fair, reasonable, and adequate, or why the Judgment should or should not be  
9 entered hereon, or why the Fee and Expense Amount or Service Awards should not be  
10 awarded. To object, the shareholder must: (a) file a written objection, stating the case  
11 name and number, *In re Maxwell Technologies, Inc. Derivative Litigation*, Case No. 13-  
12 CV-966, and stating all reasons for the objection; (b) give proof of current ownership of  
13 Maxwell stock as well as documentary evidence of when such stock ownership was  
14 acquired; (c) clearly identify any and all evidence that would be presented at the  
15 Settlement Hearing in connection with such objections; and (d) identify any case, by  
16 name, court, and docket number, in which the objector or his, her, or its attorney, if any,  
17 has objected to a settlement in the last three years. Any written objections shall be filed  
18 with Clerk of the Court at least fourteen (14) days prior to the Settlement Hearing, at the  
19 below address:

20 **CLERK OF THE COURT**

21 Edward J. Schwartz United States Courthouse  
22 Courtroom 5A, Suite 5135  
23 221 West Broadway  
24 San Diego, CA 92101

25 and copies of such objections shall be served at the same time upon the following by  
26 first-class mail:

27 **Counsel for Plaintiffs:**

28 Frank J. Johnson  
JOHNSON & WEAVER, LLP  
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2 BOTTINI & BOTTINI, INC.  
3 7817 Ivanhoe Ave., Suite 102  
4 La Jolla, California 92037  
5 Telephone: (858) 914-2001  
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8 San Diego, California 92101-4297  
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10 Facsimile: (619) 699-2701

*Counsel for Defendant Van Andrews*

11 Any Maxwell shareholder wishing to be heard at the Settlement Hearing is  
12 required to include a notice of intention to appear at the Settlement Hearing together with  
13 his, her, or its written objection.

14 Any Maxwell shareholder who does not make his, her, or its objection in the  
15 manner provided in the preceding paragraph of this Notice shall be deemed to have  
16 waived such objection and shall forever be foreclosed from: (a) making any objections to  
17 the fairness, adequacy, or reasonableness of the Settlement; or (b) making any objections  
18 to the fairness and reasonableness of the Fee and Expense Amount or Service Awards.

### 17 FURTHER INFORMATION

18 Further information regarding the Actions and this Notice may be obtained by  
19 writing Plaintiffs' Counsel at the following address: Francis A. Bottini, Jr., Bottini &  
20 Bottini, Inc., 7817 Ivanhoe Ave., Suite 102, La Jolla, California 92037.

21 The pleadings and other records of the Actions as well as the Stipulation filed with  
22 the Court may be examined and copied at any time during regular office hours at the  
23 Office of the Clerk, Edward J. Schwartz United States Courthouse, Courtroom 5A, Suite  
24 5135, 221 West Broadway, San Diego, CA 92101. Additionally, the Stipulation, this  
25 Notice and certain other settlement related documents may be examined at  
26 <http://investors.maxwell.com/phoenix.zhtml?c=94560&p=irol-IRHome>,  
27 [www.johnsonandweaver.com](http://www.johnsonandweaver.com), [www.bottinilaw.com](http://www.bottinilaw.com), and [www.hfesq.com](http://www.hfesq.com).

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