

Name & Address:

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

GENE MORRIS, Individually and on Behalf of All
Others Similarly Situated,

PLAINTIFF(S)

v.

SMITH MICRO-SOFTWARE, INC., WILLIAM W.
SMITH, JR. and ANDREW C. SCHMIDT,

DEFENDANT(S).

CASE NUMBER

SACV 11-00976 AG (ANx)

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended-complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, David C. Walton, whose address is Robbins Geller Rudman & Dowd, 655 W. Broadway, Suite 1900, San Diego CA 92101. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUN 29 2011

By: 
Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

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Dated: _____

NANCY K BOEHM

By: _____

Deputy Clerk

(Seat of the Court)

1191



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3).]

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> GENE MORRIS, Individually and on Behalf of All Others Similarly Situated	DEFENDANTS SMITH MICRO SOFTWARE, INC., WILLIAM W. SMITH, JR. and ANDREW C. SCHMIDT
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) David C. Walton Robbins Geller Rudman & Dowd LLP 655 W. Broadway, Suite 1900, San Diego, CA 92101 619/231-1058	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify):
 6 Multi-District Litigation
 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No MONEY DEMANDED IN COMPLAINT: \$ _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

15 USC §§78j(b) and 78(a) Complaint for Violation of the Federal Securities Laws

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage-Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
 Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date 6-29-11

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

1 ROBBINS GELLER RUDMAN
& DOWD LLP
2 DARREN J. ROBBINS (168593)
DAVID C. WALTON (167268)
3 CATHERINE J. KOWALEWSKI (216665)
655 West Broadway, Suite 1900
4 San Diego, CA 92101
Telephone: 619/231-1058
5 619/231-7423 (fax)
darren@rgrdlaw.com
6 davew@rgrdlaw.com
katek@rgrdlaw.com
7 Attorneys for Plaintiff

BY _____
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SAN DIEGO, CA
2011 JUN 29 PM 4:00

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 SOUTHERN DIVISION

12 GENE MORRIS, Individually and on
13 Behalf of All Others Similarly Situated,

14 Plaintiff,

15 vs.

16 SMITH MICRO SOFTWARE, INC.,
17 WILLIAM W. SMITH, JR. and
ANDREW C. SCHMIDT,

18 Defendants.

VIA FAX

No. SACV 11-00976 AG (ANx)

CERTIFICATION AS TO
INTERESTED PARTIES PURSUANT
TO LOCAL RULE 7.1-1

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The undersigned counsel of record for plaintiff GENE MORRIS, certify that the following listed party has a direct, pecuniary interest in the outcome of this case. These representations are made to enable the Court to evaluate possible disqualification or recusal.

GENE MORRIS



ATTORNEY OF RECORD FOR
PLAINTIFF GENE MORRIS

S:\CptDraft\Securities\Not Smith Micro Software.doc

FILED

2011 JUN 29 PM 4:01

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

BY _____

1 ROBBINS GELLER RUDMAN
& DOWD LLP
2 DARREN J. ROBBINS (168593)
DAVID C. WALTON (167268)
3 CATHERINE J. KOWALEWSKI (216665)
655 West Broadway, Suite 1900
4 San Diego, CA 92101
Telephone: 619/231-1058
5 619/231-7423 (fax)
darrenr@rgrdlaw.com
6 davew@rgrdlaw.com
katek@rgrdlaw.com

7 Attorneys for Plaintiff

8 [Additional counsel appear on signature page.]
9

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION

13 GENE MORRIS, Individually and on
14 Behalf of All Others Similarly Situated,

15 Plaintiff,

16 vs.

17 SMITH MICRO SOFTWARE, INC.,
WILLIAM W. SMITH, JR. and
18 ANDREW C. SCHMIDT,

19 Defendants.
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VIA FAX

No. SACV 11-00976 AG (ANx)

CLASS ACTION

COMPLAINT FOR VIOLATION OF
THE FEDERAL SECURITIES LAWS

DEMAND FOR JURY TRIAL

JURISDICTION AND VENUE

1
2 1. Jurisdiction is conferred by §27 of the Securities Exchange Act of 1934
3 (“1934 Act”). The claims asserted herein arise under §§10(b) and 20(a) of the 1934
4 Act and SEC Rule 10b-5.

5 2. Venue is proper in this district pursuant to §27 of the 1934 Act. Many of
6 the false and misleading statements were made in or issued from this district.

7 3. Smith Micro Software, Inc. maintains its principal executive office at 51
8 Columbia, Aliso Viejo, California 92656. Certain of the acts and conduct complained
9 of herein, including the dissemination of materially false and misleading information
10 to the investing public, occurred in this district.

11 4. In connection with the acts and conduct alleged in this complaint,
12 defendants, directly or indirectly, used the means and instrumentalities of interstate
13 commerce, including, but not limited to, the mails and interstate wire and telephone
14 communications.

INTRODUCTION

15
16 5. This is a securities class action on behalf of all persons who purchased or
17 otherwise acquired the common stock of Smith Micro Software, Inc. (“Smith Micro”
18 or the “Company”) between November 3, 2010 and May 4, 2011, inclusive (the
19 “Class Period”), against Smith Micro and certain of its officers and/or directors for
20 violations of the 1934 Act.

21 6. Smith Micro designs, develops and markets software products and
22 services for the mobile computing and communications industries. Smith Micro’s
23 core connection manager product, QuickLink Mobile, is used on PCs or mobile
24 devices that connect to third generation (“3G”), fourth generation (“4G”) or wireless
25 fidelity (“Wi-Fi”) networks via third-party modems such as USB dongles or
26 embedded modems.

27 7. During the Class Period, defendants issued materially false and
28 misleading statements regarding the Company’s business and financial results. As a

1 result of defendants' false statements, Smith Micro's stock traded at artificially
2 inflated prices during the Class Period, reaching a high of \$16.87 per share on January
3 5, 2011.

4 8. During the Class Period, the wireless industry began its transition from
5 operating on a 3G Network to a 4G Network. Defendants falsely represented the
6 transition to 4G would have a smooth effect on the Company's operations and
7 portrayed the transition as being a major catalyst for growth for the Company,
8 minimizing any risks to Smith Micro's operations as a result of the launch of 4G
9 devices. In fact, the transition to 4G was to have an adverse impact on demand for
10 Smith Micro's software.

11 9. Additionally, defendants failed to disclose a growing industry trend
12 indicating that PC cards were being displaced by hotspot capabilities. A mobile
13 hotspot connects to the Internet via a cellular network and then creates a Wi-Fi hotspot
14 that can connect any Wi-Fi enabled device within 30 feet. Mobile hotspots can either
15 be freestanding devices (called a Wi-Fi puck) or built into Smartphones. Mobile
16 hotspots negate the need for connection management software. In addition, the
17 growing popularity of tablets, such as the iPad, further reduced demand for the
18 Company's core connectivity product. Tablets have a different operating system than
19 a PC or Mac Book. Unlike a PC or Mac Book, a tablet operates similar to a
20 telephone, which means it is always on and it is always talking to the network, which
21 again negates the need for connection management software, such as QuickLink
22 Mobile.

23 10. Furthermore, during the Class Period, defendants hyped demand for the
24 Company's new QuickLink Hotspot Manager and Mobile Network Directors
25 products.

26 11. On February 8, 2011, Smith Micro issued a press release announcing
27 suspension of its 2011 full-year revenue guidance. The Company further reported it
28 expected revenue to be in the range of \$15 to \$20 million for the first quarter of 2011

1 due to an expected significant reduction in orders for its core Connection Manager
2 product from its key customer. However, defendants represented that the Company
3 expected orders would return to typical levels in future quarters.

4 12. On this news, Smith Micro's stock dropped \$4.56 per share to close at
5 \$8.50 per share on February 9, 2011, a one-day decline of nearly 35% on high
6 volume. However, due to defendants' false statements, the Company's stock
7 continued to be artificially inflated.

8 13. Then, on May 4, 2011, Smith Micro issued a press release announcing its
9 first quarter 2011 financial results, reporting a net loss of (\$7.8 million), or (\$0.22)
10 diluted earnings per share ("EPS"). The Company further reported revenue of \$17.8
11 million for the first quarter ended March 31, 2011, in sharp contrast to revenue of
12 \$29.9 million that Smith Micro reported for the first quarter of 2010. Additionally,
13 the Company reported revenue guidance for the second quarter of 2011 would be in
14 the range of \$15 to \$20 million. The Company further indicated it had *no customers*
15 for its QuickLink Hotspot Manager and Mobile Network Director products.

16 14. On this news, Smith Micro's stock declined \$1.60 per share to close at
17 \$5.66 per share on May 5, 2011, a one-day decline of 22% on high volume.

18 15. The true facts, which were known by the defendants but concealed from
19 the investing public during the Class Period, were as follows:

20 (a) Smith Micro's 2010 revenue surge was not due solely to organic
21 growth from real end-market demand, but rather it was partially due to an inventory
22 build by the Company's customers, including its largest customer Verizon;

23 (b) The transition in the wireless industry from a 3G to a 4G network
24 would not have a smooth, immediately positive impact on Smith Micro's operations;

25 (c) Defendants failed to disclose the risks to demand for its software
26 associated with the launch of 4G devices by wireless carriers;

27 (d) Defendants concealed the impact of a growing industry trend, that
28 of PC cards being displaced by mobile hotspots, and as a result of this shifting

1 technological trend, demand for the Company's core connectivity software would be
2 negatively impacted;

3 (e) Demand for Smith Micro's new QuickLink Hotspot Manager and
4 Mobile Network Director products was not as immediate and robust as defendants
5 represented it would be; and

6 (f) Smith Micro failed to disclose known trends and uncertainties as
7 required by SEC regulations concerning its revenue growth rate. Smith Micro
8 reported record revenue for seven consecutive quarters. Nonetheless, given changes
9 in the industry and increased competition, the Company would be unable to maintain
10 its growth at this record-setting pace and the Company's past results provided
11 investors with a distorted picture of the Company's potential growth and were not
12 indicative of future operations.

13 16. As a result of defendants' false statements, Smith Micro stock traded at
14 artificially inflated levels during the Class Period. However, after the above
15 revelations seeped into the market, the Company's shares were hammered by massive
16 sales, sending them down nearly 67% from their Class Period high.

17 **PARTIES**

18 17. Plaintiff Gene Morris purchased the common stock of Smith Micro
19 during the Class Period as set forth in the certification attached hereto and was
20 damaged as the result of defendants' wrongdoing as alleged in this complaint.

21 18. Defendant Smith Micro designs, develops and markets software products
22 and services for the mobile computing and communications industries.

23 19. Defendant William W. Smith, Jr. ("Smith") is co-founder of the
24 Company and was, at all relevant times, the Company's Chairman of the Board,
25 President and Chief Executive Officer ("CEO"). During the Class Period, Smith
26 reaped over \$1.5 million in insider trading proceeds by selling 100,000 shares of his
27 Smith Micro stock at artificially inflated prices.

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1 20. Defendant Andrew C. Schmidt (“Schmidt”) is, and at all relevant times
2 was, the Company’s Chief Financial Officer (“CFO”) and Vice President. During the
3 Class Period, Schmidt reaped \$909,970 in insider trading proceeds by selling 69,500
4 shares of his Smith Micro stock at artificially inflated prices.

5 21. The defendants referenced above in ¶¶19-20 are referred to herein as the
6 “Individual Defendants.”

7 22. The Individual Defendants, because of their positions with the Company,
8 possessed the power and authority to control the contents of Smith Micro’s quarterly
9 reports, press releases and presentations to securities analysts, money and portfolio
10 managers and institutional investors, *i.e.*, the market. They were provided with copies
11 of the Company’s reports and press releases alleged herein to be misleading prior to or
12 shortly after their issuance and had the ability and opportunity to prevent their
13 issuance or cause them to be corrected. Because of their positions with the Company,
14 and their access to material non-public information available to them but not to the
15 public, the Individual Defendants knew that the adverse facts specified herein had not
16 been disclosed to and were being concealed from the public and that the positive
17 representations being made were then materially false and misleading. The Individual
18 Defendants are liable for the false statements pleaded herein.

19 **FRAUDULENT SCHEME AND COURSE OF BUSINESS**

20 23. Defendants are liable for: (i) making false statements; or (ii) failing to
21 disclose adverse facts known to them about Smith Micro. Defendants’ fraudulent
22 scheme and course of business that operated as a fraud or deceit on purchasers of
23 Smith Micro common stock was a success, as it: (i) deceived the investing public
24 regarding Smith Micro’s prospects and business; (ii) artificially inflated the price of
25 Smith Micro common stock; (iii) permitted the Individual Defendants to sell their
26 Smith Micro stock at inflated prices; and (iv) caused plaintiff and other members of
27 the Class to purchase Smith Micro common stock at inflated prices.

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BACKGROUND

24. Smith Micro designs, develops and markets software products and services for the mobile computing and communications industries. The Company is focused on developing connectivity, communications, and content management solutions for wireless and wired networks, including its QuickLink family of products. Smith Micro provides mobile and voice and data connectivity across 3G, 4G and Wi-Fi Networks. The Company operates in two segments: wireless and productivity and graphics.

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DEFENDANTS' FALSE AND MISLEADING STATEMENTS ISSUED DURING THE CLASS PERIOD

25. On November 3, 2010, Smith Micro issued a press release announcing its third quarter 2010 financial results. The Company reported net income of \$3.1 million, or \$0.09 diluted EPS, and revenue of \$34.0 million for the quarter ending September 30, 2010. The release stated in part:

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“We achieved our sixth consecutive quarter of record revenue growth in the third quarter and delivered outstanding bottom-line results,” said William W. Smith Jr., President and CEO of Smith Micro Software. . . .

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. . . *“The coming deployments of higher speed networks such as LTE will drive and attract new users to mobile broadband services. We see additional growth opportunities for our software portfolio to serve this expanding set of users with broader demographic characteristics.”*

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26. After releasing its financial results on November 3, 2010, Smith Micro hosted a conference call to discuss its third quarter 2010 results with investors, media representatives and analysts, during which defendant Smith represented the following:

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We are about to embark on a new era of broadband mobile internet services with the imminent launch of LTE. These new higher speed services will enable our ability to serve an expanding audience of

1 users with the adoption potential and demographic characteristics that
2 are much broader than today's mobile broadband user base.

3 *We view the upcoming quarters where we expect LTE to launch*
4 *in earnest as the beginning of the next growth phase in Smith Micro's*
5 *history.* And I have to say, we're pretty excited about what we see ahead
6 of us with our continuing roll-out for 4G, WiMax and LTE networks.

7 * * *

8 We see deployment of our products being driven in the following
9 ways. One, many current users of 3G service will opt to upgrade to enjoy
10 higher speeds on the 4G networks, giving a new license opportunity.
11 Two, adoption from new users who may consider LTE mobile
12 broadband as a replacement service for fixed broadband in the home.
13 Three, the adoption of more flexible pricing plans that will draw new
14 users such as occasional travelers or casual users; and four, the adoption
15 of pay-as-you-go services as an alternative to Wi-Fi hotspot services.

16 *All of these scenarios are positive drivers for Smith Micro and*
17 *for further adoption of our suite of connectivity offerings.* 4G, WiMax
18 and LTE services will be *a major catalyst* for our wireless software
19 business which will enable opportunities for the next several years.

20 * * *

21 First, our core wireless and mobility product line is performing
22 exceptionally well, driving solid growth and outstanding margins. We
23 had a great third quarter, and *with the coming launch of LTE we have*
24 *every reason to believe opportunities for continued success in the*
25 *coming quarters are outstanding.*

26 We are really just now at the beginning of the era of 4G mobile
27 internet services. The launch of these new high-speed networks will
28 enable new subscribers, connected devices and business models. *We*

1 *believe our line-up of product offerings, technology, innovation and*
2 *our strategic growth from that will serve to help our customers drive*
3 *new business.* We have just launched several new products such as our
4 video platform and QuickLink mobility, our universal connectivity and
5 security solution, that are addressing new opportunities emerging in the
6 market.

7 The confluence of higher speed mobile networks, a proliferation
8 of devices, new applications and content accessibility is driving a long-
9 term trend towards an increasingly connected and mobile world that
10 Smith Micro will prosper from.

11 27. On this news, Smith Micro's stock closed up \$2.39 per share to close at
12 \$14.87 per share on November 4, 2010.

13 28. On January 5, 2011, Smith Micro stock closed at \$16.87 per share – its
14 Class Period high.

15 29. On January 11, 2011, Smith Micro issued a press release announcing its
16 fiscal year 2011 revenue guidance. The Company reported that it expected fiscal 2011
17 full-year revenues to be in the range of \$150 million to \$160 million. Additionally,
18 the Company reported full-year 2010 revenues would be in line with its previously
19 announced guidance of approximately \$130 million.

20 30. After releasing its financial guidance on January 11, 2010, Smith Micro
21 hosted a conference call to discuss its fiscal year 2011 revenue guidance with
22 investors, media representatives and analysts, during which defendant Smith
23 represented the following:

24 Let's kind of stop for a second and talk about what were really
25 some of the drivers and catalysts of 2010 and what do we see as being
26 some of the significant drivers for the business in 2011. If we look at
27 2010, it was really all about 3G.

28

1 Yes, we got a little bit of help from 4G in the WiMAX area. As
2 many of you know, *Verizon launched 4G in the month of December, so*
3 *we got just a little help there as well.*

4 But really 4G wasn't the big play for 2010. It was continued
5 deployment and greater penetration in the 3G world.

6 *As we look at 2011, however, this is where 4G starts to really*
7 *kick in. We will have our first full quarter of 4G deployment with*
8 *Verizon Wireless.*

9 And you know, a lot of our analysts, a lot of our investors are
10 pretty excited about it, but I caution all of you not to get ahead of us.
11 When you look at the 4G world, it's going to be a two to three-year
12 rollout of 4G, and it's going to benefit us through that entire period of
13 time. It's not just an event that happens this quarter never to be really
14 focused on again.

15 This is a big deal. It is going to take time and it's going to yield all
16 the results that all of you are looking for from the standpoint of the
17 quality of our business, the growth of our business.

18 * * *

19 So when you view 4G, this is a very exciting and very powerful
20 event, but it's something that's going to really be a catalyst for our
21 business case throughout 2011 going into 2012 and 2013. This is a long-
22 term play and we're just starting with the first carrier.

23 * * *

24 We call this platform Smith Micro DNA, and this is a platform
25 strategy that we will be continuing to bring to life throughout 2011. *As a*
26 *matter of fact, we announced a brand-new product for the Smith Micro*
27 *DNA platform and that is our QuickLink Hotspot Manager and we*
28 *announced that last week at CES. . . .*

1 *revenue impact is due primarily to the timing of new product roll-outs*
2 *and sales of existing inventory.”*

3 32. After announcing the suspension of its 2011 full-year revenue guidance
4 on February 8, 2011, Smith Micro hosted a conference call for analysts, media
5 representatives and investors, during which defendant Smith represented the
6 following:

7 We attribute the change in this order pattern to be due to factors
8 primarily tied to this customer currently carrying a sufficient level of
9 mobile broadband device inventory that is used in conjunction with our
10 Connection Manager, which we now believe should sustain them
11 through the first quarter.

12 Another impacting factor driving this deep reduction in orders is
13 tied to the market timing for the rollout of new products, which we
14 previously expected to launch in time to drive new Q1 sales. It is now
15 expected that orders to support anticipated new mobile broadband
16 devices will likely not take place until Q2.

17 As a result of these developments, we see our first-quarter sales
18 being impacted materially, and management now expects revenues for
19 the first quarter to be in the range of \$15 million to \$20 million. This
20 anticipated change in our previous Q1 expectations will impact our 2011
21 full-year revenue, and thus we are suspending full-year revenue
22 guidance.

23 We intend to provide further updates for Q2 guidance as we gain
24 more clarity on the ordering cycle. *We anticipate that this lower level of*
25 *orders is likely to be a one-time event, and we should see order patterns*
26 *for our software begin to normalize sometime during Q2.*

27 *We see reason to believe that the sales of broadband services*
28 *generated by our customer in Q1, coupled with the launch of new*

1 *product offerings and the increased excitement for 4G mobile*
2 *broadband service, will drive more normal ordering that will help get*
3 *our growth patterns back to more typical levels.*

4 The coming wave of 4G services and network rollouts will
5 provide further opportunity for Smith Micro and will drive long-term
6 growth trends. We have strong customer relationships and a broad
7 portfolio of products and technologies to serve our customers in
8 expanded ways.

9 * * *

10 We believe that our strong relationships with our customers, our
11 robust product portfolio, and the cyclical trend for 4G services will serve
12 to continue to drive outstanding results for our Company in the long run.
13 We are committed to getting back on track to delivering robust quarterly
14 results for our shareholders.

15 33. On this news, Smith Micro's stock plummeted \$4.56 per share to close at
16 \$8.50 per share on February 9, 2011, a one-day decline of near 35% on high volume.
17 Nonetheless, Smith Micro's share price remained artificially inflated due to
18 defendants' continued misrepresentations and denials.

19 34. On February 24, 2011, Smith Micro issued a press release announcing its
20 fourth quarter 2010 financial results. The Company reported net income of
21 \$5.8 million, or \$0.16 diluted EPS, and revenue of \$35.3 million for the quarter ended
22 December 31, 2010. Additionally, the Company reported net income of
23 \$12.3 million, or \$0.36 diluted EPS, and revenue of \$130.5 million for the full year
24 2010. The release stated in part:

25 "Our solid fourth quarter performance contributed to closing out
26 fiscal 2010 as a very strong year where we achieved both record
27 revenues and profitability," said William W. Smith Jr., President and
28 CEO of Smith Micro Software. "In addition to delivering outstanding

1 financial results, during the year we embarked on several key new
2 initiatives within the Company designed to put us in position to capture
3 new opportunities emerging with the rapid adoption of broadband mobile
4 data services along with the deployments of 4G next generation wireless
5 networks.”

6 Mr. Smith concluded, “*We are encouraged by the early response*
7 *to some of our key initiatives such as our Quicklink Mobile Hotspot*
8 *Manager powered by our SODA (Secure on-Device API) that will*
9 *bring a new level of manageability to the mobile hotspot users*
10 *experience while enabling carriers and device manufacturers with*
11 *increased efficiencies and velocity to market with these exciting new*
12 *products.*”

13 35. After issuing its fourth quarter 2010 results on February 24, 2011, Smith
14 Micro hosted a conference call for analysts, media representatives and investors,
15 during which defendant Smith represented the following:

16 We are pleased to report another great quarter with solid financial results
17 and outstanding fiscal year performance. *We’ve posted our seventh*
18 *consecutive quarter of revenue growth generating the highest quarterly*
19 *revenue results in our company’s history of \$35.3 million.* This
20 represents an improvement of \$5.6 million over Q4 2009 or an 18.8%
21 increase in revenue over the same period last year.

22 * * *

23 We see the road ahead holding great possibilities for further
24 growth as many exciting transitions taking place in the mobile one
25 wireless industry unfold. We have embarked on a new era of broadband
26 mobile internet service with 4G and LTE coming to life at the end of the
27 year. We see new products and form factors poised to drive adoption of
28 mobile internet services at a level never before seen. *Each day seems to*

1 *bring new developments and Smith Micro is in a great position to*
2 *capitalize on many of the emerging opportunities.*

3 * * *

4 While we see laptops with embedded modems, USB downloads
5 and other mobile broadband modems as key drivers to our success for
6 the future, we are busy innovating and improving and preparing to
7 deliver new solutions that will make the connectivity experience on
8 Smartphones, tablets and mobile hot spots even more compelling. *The*
9 *key initiative in this area is our quick link Mobile Hotspot Manager*
10 *powered by Smith Micro SODA or Secure On-Device API.* The Hot
11 Spot Manager technology enables ways to manage a mobile hot spot
12 whether on a Smartphone or a tablet or a self-contained hot spot modem
13 with fine granularity and robust security for each connected end point.

14 * * *

15 We had an absolutely tremendous 2010, and we are excited about our
16 business prospects in 2011 and beyond.

17 We are really just at the beginning of the 4G mobile internet
18 revolution, and we are poised to participate in expanding ways. *The*
19 *launch of these new high speed networks will enable new subscribers,*
20 *connected devices and business models that will benefit from our*
21 *lineup of products and technology.* We are focused on continuing to
22 innovate, execute and getting back to an exciting growth and profitability
23 in the near term.

24 36. Then, on May 4, 2011, Smith Micro issued a press release announcing its
25 first quarter 2011 financial results, reporting a net loss of (\$7.8 million), or (\$0.22)
26 diluted EPS. The Company further reported revenue of \$17.8 million for the first
27 quarter ended March 31, 2011, in sharp contrast to revenue of \$29.9 million that
28 Smith Micro reported for the first quarter of 2010. Additionally, the Company

1 reported revenue guidance for the second quarter of 2011 would be in the range of \$15
2 to \$20 million. The Company further indicated it had *no customers* for its QuickLink
3 Hotspot Manager and Mobile Network Director products.

4 37. On this news, Smith Micro's stock declined \$1.60 per share to close at
5 \$5.66 per share on May 5, 2011, a one-day decline of 22% on high volume.

6 38. The true facts, which were known by the defendants but concealed from
7 the investing public during the Class Period, were as follows:

8 (a) Smith Micro's 2010 revenue surge was not due solely to organic
9 growth from real end-market demand, but rather it was partially due to an inventory
10 build by the Company's customers, including its largest customer Verizon;

11 (b) The transition in the wireless industry from a 3G to a 4G network
12 would not have a smooth, immediately positive impact on Smith Micro's operations;

13 (c) Defendants failed to disclose the risks to demand for its software
14 associated with the launch of 4G devices by wireless carriers;

15 (d) Defendants concealed the impact of a growing industry trend, that
16 of PC cards being displaced by mobile hotspots, and as a result of this shifting
17 technological trend, demand for the Company's core connectivity software would be
18 negatively impacted;

19 (e) Demand for Smith Micro's new QuickLink Hotspot Manager and
20 Mobile Network Director products was not as immediate and robust as defendants
21 represented it would be; and

22 (f) Smith Micro failed to disclose known trends and uncertainties as
23 required by SEC regulations concerning its revenue growth rate. Smith Micro
24 reported record revenue for seven consecutive quarters. Nonetheless, given changes
25 in the industry and increased competition, the Company would be unable to maintain
26 its growth at this record-setting pace and the Company's past results provided
27 investors with a distorted picture of the Company's potential growth and were not
28 indicative of future operations.

1 39. On May 5, 2011, Jefferies issued an analyst report that stated in part:
2 Management cited a combination of inventory workdown at Verizon and
3 slow sales of 4G dongles. Smith Micro's software is used to manage
4 Verizon's 3G USB dongles and hotspots as well as the 4G dongles.
5 Verizon recently launched 4G mobile hotspots from Samsung and
6 Novatel with the Samsung product receiving the vast majority of
7 Verizon's marketing attention. *We had hoped that Smith Micro's*
8 *software would be deployed with these products, but Verizon instead*
9 *opted for phone activation.*

10 40. On May 5, 2011, Brigantine Advisors issued an analyst report, stating in
11 part:

12 **Reducing estimates.** In light of the lower-than-expected guidance
13 and apparent lack of interest in 4G services within the enterprise sector,
14 we are more comfortable with lower estimates and have reduced our
15 FY11 estimates to \$87.3M and (\$0.25) down from \$108.0M and \$0.12.
16 We are introducing FY12 estimates but have very little confidence in
17 them given the unsettled nature of the situation at Verizon. *In addition,*
18 *Smith has said that it has no customers for its new Hotspot*
19 *Management software or its new Network Director software,* but
20 expects to have announcements in short order. *The lack of customers*
21 *for these new products clouds longer-term visibility as these new*
22 *products are needed to offset the waning use of USB modems and*
23 *related connectivity software (about 90% of 1Q11 sales) upon which*
24 *Smith currently relies.*

25 41. On May 5, 2011, Dougherty & Company LLC issued an analyst report,
26 which stated in part:

27 > Based on weak Q211 guidance, Smith Micro's business in 1H11
28 is nearly half the level it was in 1H10. *And this comes at a time*

1 (c) whether defendants' statements omitted material facts necessary to
2 make the statements made, in light of the circumstances under which they were made,
3 not misleading;

4 (d) whether defendants knew or deliberately disregarded that their
5 statements were false and misleading;

6 (e) whether the price of Smith Micro common stock was artificially
7 inflated; and

8 (f) the extent of damage sustained by Class members and the
9 appropriate measure of damages.

10 49. Plaintiff's claims are typical of those of the Class because plaintiff and
11 the Class sustained damages from defendants' wrongful conduct.

12 50. Plaintiff will adequately protect the interests of the Class and has retained
13 counsel who are experienced in class action securities litigation. Plaintiff has no
14 interests which conflict with those of the Class.

15 51. A class action is superior to other available methods for the fair and
16 efficient adjudication of this controversy.

17 **COUNT I**

18 **For Violation of §10(b) of the 1934 Act and Rule 10b-5** 19 **Against All Defendants**

20 52. Plaintiff incorporates ¶¶1-51 by reference.

21 53. During the Class Period, defendants disseminated or approved the false
22 statements specified above, which they knew or deliberately disregarded were
23 misleading in that they contained misrepresentations and failed to disclose material
24 facts necessary in order to make the statements made, in light of the circumstances
25 under which they were made, not misleading.

26 54. Defendants violated §10(b) of the 1934 Act and Rule 10b-5 in that they:

27 (a) employed devices, schemes and artifices to defraud;

28

1 (b) made untrue statements of material facts or omitted to state
2 material facts necessary in order to make the statements made, in light of the
3 circumstances under which they were made, not misleading; or

4 (c) engaged in acts, practices and a course of business that operated as
5 a fraud or deceit upon plaintiff and others similarly situated in connection with their
6 purchases of Smith Micro common stock during the Class Period.

7 55. Plaintiff and the Class have suffered damages in that, in reliance on the
8 integrity of the market, they paid artificially inflated prices for Smith Micro common
9 stock. Plaintiff and the Class would not have purchased Smith Micro common stock
10 at the prices they paid, or at all, if they had been aware that the market price had been
11 artificially and falsely inflated by defendants' misleading statements.

12 **COUNT II**

13 **For Violation of §20(a) of the 1934 Act** 14 **Against All Defendants**

15 56. Plaintiff incorporates ¶¶1-55 by reference.

16 57. The Individual Defendants acted as controlling persons of Smith Micro
17 within the meaning of §20(a) of the 1934 Act. By virtue of their positions with the
18 Company, and ownership of Smith Micro stock, the Individual Defendants had the
19 power and authority to cause Smith Micro to engage in the wrongful conduct
20 complained of herein. Smith Micro controlled the Individual Defendants and all of its
21 employees. By reason of such conduct, defendants are liable pursuant to §20(a) of the
22 1934 Act.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, plaintiff prays for judgment as follows:

25 A. Declaring this action to be a proper class action pursuant to Fed. R. Civ.
26 P. 23;

27 B. Awarding plaintiff and the members of the Class damages, including
28 interest;

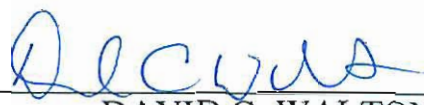
- 1 C. Awarding plaintiff reasonable costs and attorneys' fees; and
- 2 D. Awarding such equitable/injunctive or other relief as the Court may deem
- 3 just and proper.

4 **JURY DEMAND**

5 Plaintiff demands a trial by jury.

6 DATED: June 29, 2011

ROBBINS GELLER RUDMAN
& DOWD LLP
DARREN J. ROBBINS
DAVID C. WALTON
CATHERINE J. KOWALEWSKI

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10 _____
DAVID C. WALTON

11 655 West Broadway, Suite 1900
12 San Diego, CA 92101
13 Telephone: 619/231-1058
619/231-7423 (fax)

14 CHAPIN FITZGERALD SULLIVAN &
15 BOTTINI LLP
16 FRANK A. BOTTINI
17 550 West C Street, Suite 2000
San Diego, CA 92101
Telephone: 619/241-4810
619/955-5318 (fax)

18 Attorneys for Plaintiff

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**CERTIFICATION OF NAMED PLAINTIFF
PURSUANT TO FEDERAL SECURITIES LAWS**

GENE MORRIS ("Plaintiff") declares:

1. Plaintiff has reviewed a complaint and authorized its filing.
2. Plaintiff did not acquire the security that is the subject of this action at the direction of plaintiff's counsel or in order to participate in this private action or any other litigation under the federal securities laws.
3. Plaintiff is willing to serve as a representative party on behalf of the class, including providing testimony at deposition and trial, if necessary.
4. Plaintiff has made the following transaction(s) during the Class Period in the securities that are the subject of this action:

Acquisitions:

Date Acquired	Number of Shares Acquired	Acquisition Price Per Share
02/03/11	500 shares	\$12.73

afm
12.72990

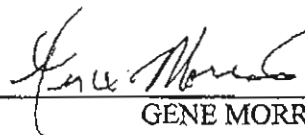
Sales:

Date Sold	Number of Shares Sold	Selling Price Per Share
04/21/11	500 shares	\$7.69180

5. Plaintiff has not sought to serve or served as a representative party in a class action that was filed under the federal securities laws within the three-year period prior to the date of this Certification except as detailed below:

6. The Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond the Plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the court.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 28th day of JUNE, 2011.



GENE MORRIS