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NORTHERN DISTRICT OF CALIFORNIA

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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION

CV 08

2367

15 SECURITIES AND EXCHANGE COMMISSION,
16 Plaintiff,
17 v.
18 MARVELL TECHNOLOGY GROUP, LTD. and
19 WEILI DAI,
20 Defendants.

Case No. _____
COMPLAINT

HRL

21 Plaintiff Securities and Exchange Commission (the "Commission") alleges:

22 SUMMARY OF THE ACTION

23 1. From at least early 2001 through 2004, Marvell Technology Group, Ltd. ("Marvell" or
24 the "Company"), a Santa Clara semiconductor company, engaged in a scheme to illegally backdate
25 stock options granted to Marvell employees and executives, concealing hundreds of millions of
26 dollars in expenses from the Company's shareholders. Company co-founder and Chief Operating
27 Officer Weili Dai routinely used hindsight to pick dates with low stock prices for purported stock

1 option grants, and signed false documents that made it appear as if the options had been granted on
2 the earlier dates.

3 2. Under well-settled accounting principles in effect during the relevant period, Marvell
4 was required to record an expense in its financial statements for any options granted to employees
5 with an exercise price below the current market price (“in-the-money”), but did not need to record an
6 expense for options granted with an exercise price equal to the current market price (“at-the-money”).
7 In order to provide employees and officers with valuable “in-the-money” options without recording
8 an expense, Marvell routinely backdated stock option grants to make it appear as though the options
9 had been granted “at-the-money” on an earlier date.

10 3. Dai, acting as Marvell’s “Stock Option Committee,” engaged in a routine practice of
11 reviewing a list of Marvell’s historical stock prices and picking the date with the lowest (or one of the
12 lowest) stock prices since the last grant date. This date, picked with hindsight by Dai, would then be
13 communicated to Marvell personnel as the date on which the Stock Option Committee had
14 purportedly met and authorized the option grant. To make it appear that Marvell had actually granted
15 the options on that date, Dai signed falsified minutes attesting to a meeting of the Committee on that
16 earlier date.

17 4. As a result of the backdating scheme, Marvell failed to record compensation expenses
18 for those options. From its fiscal years 2000 through 2006, Marvell overstated its income by \$362
19 million and falsely represented in Commission filings and shareholder communications that it granted
20 options “at-the-money” and thus incurred no expenses for options granted below fair market value.

21 5. Marvell and Dai violated the antifraud, internal controls, books and records, and
22 financial reporting provisions of the federal securities laws. The Commission seeks an order
23 enjoining Marvell and Dai from future violations of the securities laws, requiring Marvell and Dai to
24 pay civil monetary penalties, barring Dai from serving as an officer or director of a public company,
25 and providing other appropriate relief.

1 **JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT**

2 6. The Commission brings this action pursuant to Sections 20(b) and 20(d) of the
3 Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77t(b) and 77t(d)] and Sections 21(d) and
4 21(e) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §§ 78u(d) and 78u(e)].

5 7. This Court has jurisdiction over this action pursuant to Sections 20(b) and 22(a) of the
6 Securities Act [15 U.S.C. §§ 77t(b) and 77v(a)] and Sections 21(d), 21(e), and 27 of the Exchange
7 Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

8 8. Venue is proper in this district pursuant to Section 22 of the Securities Act [15 U.S.C.
9 § 77v] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Marvell’s principal place of business
10 is in the Northern District of California. Dai resides in the Northern District of California. Acts or
11 transactions constituting violations of the federal securities laws occurred in this district.

12 9. Marvell and Dai, directly or indirectly, made use of the means or instrumentalities of
13 interstate commerce, or of the mails, or of the facilities of a national securities exchange in
14 connection with the transaction, acts, practices, and courses of business alleged herein.

15 10. Assignment to the San Jose Division is appropriate pursuant to Civil Local Rules 3-
16 2(c) and 3-2(d) because acts and omissions giving rise to the Commission’s claims occurred, among
17 other places in this district, in Santa Clara County.

18 **DEFENDANTS**

19 11. Marvell is incorporated in Hamilton, Bermuda and its primary operating subsidiary,
20 Marvell Semiconductor, Inc., is headquartered in Santa Clara, California and makes integrated
21 circuits. At all relevant times, Marvell’s common stock was registered with the Commission pursuant
22 to Section 12(g) of the Exchange Act and traded on the Nasdaq Global Market under the symbol
23 “MRVL.” With the exception of fiscal year 2001, Marvell used a fiscal year that ended on the
24 Saturday nearest January 31.

25 12. Weili Dai, age 46, resides in Los Altos Hills, California. Dai co-founded Marvell in
26 1995 along with her husband and current CEO and Chairman of the Board, Dr. Sehat Sutardja, and
27 Dr. Pantas Sutardja, Dai’s brother-in-law. Dai served on Marvell’s Board of Directors from 1995
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1 through May 2007. In addition, she has served as Secretary, Executive Vice President from 1999 to
2 April 2006, and, beginning in 2006, Chief Operating Officer. In May 2007, she was asked to resign
3 from the Board and from her senior executive positions. Dai assumed the position of Marvell's
4 Director of Strategic Marketing and Business Development, and remains in that position as of April
5 2008. During the Commission's investigation, Dai asserted her Fifth Amendment right against self-
6 incrimination and accordingly declined to answer any of the Commission staff's substantive
7 questions.

8 FACTUAL ALLEGATIONS

9 **A. Marvell Used Stock Options To Recruit And Retain Employees.**

10 13. Throughout the relevant period, Marvell used employee stock options as a form of
11 compensation to recruit, reward, and retain key employees. Each option gave the grantee the right to
12 buy Marvell common stock from the Company at a set price, called the "exercise" or "strike" price,
13 on a future date after the option vested. The option was "at-the-money" when granted if the closing
14 price of Marvell's common stock on the date of the grant and the exercise price were the same. The
15 option was "in-the-money" when granted if the closing price of Marvell common stock on the date of
16 the grant exceeded the option's exercise price.

17 14. The Company described to its shareholders the benefits of stock options in its 2004
18 proxy statement: "Stock option grants are intended to focus the attention of the recipient on the
19 Company's long-term performance, which the Company believes results in improved shareholder
20 value, and to retain the services of the executive officers and employees in a competitive job market
21 by providing significant long-term earnings potential." Dai signed the 2004 proxy statement as
22 Marvell's Secretary.

23 **B. Marvell Told Shareholders It Granted Stock Options At Fair Market Value.**

24 15. Marvell's stock option plan required the exercise price of stock options to be "at least"
25 the closing price of the Company's stock on the "date of grant." Under the terms of the Stock Option
26 Plan, the grant date was presumed to be the date that the administrator "completes the actions
27 necessary to grant" the options.

1 16. Under Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to
2 Employees" ("APB 25") and the accounting rules in effect during Marvell's fiscal years 2001 through
3 2006, public companies were required to record an expense on their financial statements for the "in-
4 the-money" portion of any option grant. According to APB 25, that difference had to be recorded as a
5 compensation expense recognized over the vesting period of the option. Consequently, granting "in-
6 the-money" options to employees could have a significant impact on the expenses and income (or
7 loss) reported to the shareholders of a public company. APB 25 allowed companies, where the key
8 terms of an option grant were known, to grant employee stock options without recording any
9 compensation expense so long as the option exercise price was not below the stock's market price on
10 the date of the grant.

11 17. Marvell publicly reported, in its annual reports on Form 10-K for fiscal years 2001
12 through 2006, that the Company accounted for its employee stock options in accordance with APB
13 25. During the relevant time period, Marvell represented that the Company generally granted options
14 "at-the-money," not "in-the-money." During the relevant time period, Marvell did not take a
15 compensation charge for the difference between the fair market value of the options on the date of the
16 grant to existing employees and new hires, and the exercise price at which they were granted.

17 **C. Marvell Backdated Employee Option Grants.**

18 18. In late 2000, Marvell's Board of Directors, which included Dai and her husband, CEO
19 and Chairman of the Board Sehat Sutardja, delegated its authority to grant stock options to a Stock
20 Option Committee and appointed Dai and Sutardja as the Committee's sole members. The Board's
21 authorizing resolution empowered Dai and Sutardja to act jointly as the administrator of Marvell's
22 Stock Option Plan approved by shareholders.

23 19. In 2000, Dai attended meetings in which accounting for stock options was discussed.
24 The meetings put Dai and other Marvell executives on notice of the potential accounting implications
25 of options with exercise prices below the market price of the Company's common stock.

26 20. As detailed below, the Stock Option Committee never met. Instead, between 2001 and
27 2004, Dai herself picked the grant dates for Marvell's option grants to both newly hired and existing
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1 employees. Dai used historical stock price charts to select dates with low stock prices, and then
2 signed Stock Option Committee minutes which falsely represented that the Committee had met on
3 those earlier dates.

4 21. Periodically throughout the year, Dai asked personnel in Marvell's human resources
5 department for, and was provided with, a list of Marvell's historic stock prices dating back to the last
6 date a grant was made. She then picked a date on which Marvell's stock was trading at or near the
7 lowest price for that period. This date was then treated as the ostensible date on which the Stock
8 Option Committee had met and granted the options, even though no such Committee meetings ever
9 occurred.

10 22. In order to process the grants, the purported Stock Option Committee meeting date
11 was forwarded to stock administration personnel, as well as senior executives in the legal and finance
12 departments. Marvell's general counsel would then prepare minutes of the purported Committee
13 meeting for Dai's signature. The minutes, no more than one and a half pages, often included detailed
14 information about the Committee meeting – stating that Committee members Dai and Sutardja were
15 personally present, that Sutardja (as Chairman) called the meeting to order, that the Committee
16 reviewed and discussed stock option grant recommendations, and that the Committee unanimously
17 approved the option grants. This information was wholly fictitious, as no such meetings took place,
18 and the dates of the supposed meetings were selected with hindsight in order to secure lower stock
19 option exercise prices. Between 2001 and mid-2004, Dai signed at least 30 sets of fraudulent Stock
20 Option Committee minutes documenting backdated option grants.

21 23. As a result of the backdating and the use of false documentation, Marvell treated in-
22 the-money options as if they had been granted at-the-money. Marvell did not take a compensation
23 charge for the difference between the fair market value of the options on the date of the grant to
24 existing employees and new hires, and the exercise price at which they were granted.

25 24. Marvell failed to detect or prevent Dai's backdating, despite red flags signaling
26 potential misconduct. For example, Company personnel frequently complained about long delays
27 between option grants, only to be informed that the Stock Option Committee had in fact met on an
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1 earlier date. Internal correspondence suggested that such delays were caused not by a time lag
2 between the date of the Stock Option Committee meeting and the time the grant information was
3 communicated to stock administration personnel, but rather by the practice of using historical stock
4 price information to select grant dates with low stock prices.

5 25. In other instances, Marvell personnel learned that Stock Option Committee meetings
6 were “cancelled” after they had supposedly already happened and, on at least one occasion, minutes
7 had already been drafted. At least three such meetings were “cancelled” in 2001. In reality, new
8 dates were being selected for the grants in order to take advantage of declines in Marvell’s stock
9 price.

10 26. Concerns over Marvell’s stock option granting process were raised as early as 2000,
11 when personnel discussed using the date of hire as the grant date for all new hires. Although briefly
12 followed, that proposal was soon dropped. Instead, Marvell allowed options to be priced on the date
13 of the purported Stock Option Committee meeting “to provide the Company with the greatest
14 flexibility to price grants” – a policy that ended up facilitating the backdating scheme. In 2002 and
15 again in 2003, Marvell’s auditors also suggested that Marvell’s stock option process be standardized
16 to be more systematic and objective, but these suggestions were not adopted by Marvell.

17 27. Notwithstanding these indicia of possible wrongdoing, Marvell failed to take steps to
18 prevent misconduct in connection with the Company’s stock option grants.

19 28. Finally, in mid-2004, the Company revised its grant process and set the date of new
20 hire option grants on the first Friday of the month. As a result, Dai no longer picked grant dates with
21 the benefit of hindsight. During that period, however, Dai continued to sign false Stock Option
22 Committee meeting minutes reflecting meetings that never occurred. Even after Dai ceased
23 backdating options, there remained internal controls problems that resulted in the failure to record
24 expenses for options granted with exercise prices below market prices at the time of the grant.

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1 **D. As A Result Of The Backdating, Marvell Publicly Reported False And**
2 **Misleading Financial Information.**

3 29. Marvell is a public company. Accordingly, it filed with the Commission annual
4 reports on Form 10-K for the fiscal years ended January 27, 2001 (filed April 27, 2001), February 2,
5 2002 (filed May 1, 2002), February 1, 2003 (filed May 1, 2003), January 31, 2004 (filed April 13,
6 2004), January 29, 2005 (filed April 14, 2005), and January 28, 2006 (filed April 13, 2006) which
7 included financial statements that were audited by Marvell's independent accountants.

8 30. Dai signed the Form 10-Ks for the fiscal years 2001 through 2005 as Executive Vice
9 President, secretary, and director. She signed the Form 10-K for the fiscal year 2006 as an officer and
10 director.

11 31. In the notes to its audited financial statements, which were included in its annual
12 reports for fiscal years 2001 through 2006, Marvell affirmatively stated that the Company accounted
13 for its employee stock option plans in accordance with APB 25. Additionally, in proxy statements
14 provided to shareholders, Marvell stated that stock options were granted with exercise prices equal to
15 the fair market value on the date of the grant.

16 32. In its financial statements accompanying its annual reports, Marvell failed to record
17 compensation expenses for the backdated, "in-the-money" option grants. Marvell materially
18 understated its expenses and overstated its net income in the financial statements included in its
19 annual reports by more than 10 percent cumulatively between fiscal year 2001 and 2006, and for each
20 fiscal year between 2003 and 2006.

21 33. The financial misstatements were material. Marvell understated its compensation
22 expenses by a cumulative total of approximately \$327 million between 2000 and 2006. It also
23 overstated its net income for this period by a cumulative total of approximately \$362 million.

24 34. The financial misstatements were material on an annual basis as well. For example, in
25 its 2004 fiscal year, Marvell reported to investors its first positive net income since becoming a public
26 company. However, had Marvell properly accounted for its stock option grants, Marvell would have
27 reported a net loss of \$18.3 million. For fiscal year 2005, had the company properly accounted for its
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1 stock option grants, it would have reported annual net income of only \$62.8 million, 56% less than its
2 reported net income of \$141.7. Similarly, the Company's fiscal year 2006 net income would have
3 been \$199.5 million if it had properly expensed its backdated options, 40% less than its reported net
4 income of \$331.4 million.

5 35. In order to allow Marvell's independent accountants to review and audit the
6 Company's financial statements, Marvell provided them copies of the false Stock Option Committee
7 minutes. Marvell confirmed the accuracy of those minutes in management representation letters to its
8 auditors.

9 36. Marvell also filed with the Commission quarterly reports on Form 10-Q between
10 September 12, 2001 and June 8, 2006. The quarterly reports also contained financial statements that
11 were materially false or misleading because Marvell failed to record compensation expenses
12 associated with "in-the-money" options.

13 37. In addition, Marvell filed with the Commission current reports on Form 8-K between
14 April 5, 2001 and May 18, 2006, each of which announced the Company's financial results for the
15 prior quarter. These current reports contained materially false and misleading financial information
16 because Marvell failed to record compensation expenses associated with undisclosed grants of "in-
17 the-money" stock options.

18 38. Marvell's proxy statements (which were sent to shareholders and filed with the
19 Commission) also made materially false representations about Marvell's stock option grants.
20 Marvell's proxy statements asserted that the Company did not grant employee stock options at less
21 than fair market value on the date of the grant. This was false; as described above, Marvell routinely
22 granted "in-the-money" options through backdating. As corporate secretary, Dai signed the notices of
23 the annual shareholder meetings that were included with each proxy statement and thus solicited the
24 proxies.

25 39. In reliance on the Stock Option Committee minutes, Marvell's proxy statements also
26 included the number of times that the Stock Option Committee met during the prior fiscal year.
27 Between December 2000 and January 2006, according to Marvell's proxy statements, the Committee
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1 met 53 times. Because the Stock Option Committee never met, the proxy statements provided
2 investors with false and misleading information about Marvell's stock option granting process.

3 40. Marvell also sold securities pursuant to offering documents, including registration
4 statements on Forms S-3, which incorporated Marvell's false and misleading financial statements.
5 Marvell filed Forms S-3 in July 2003 and November 2005 to register shares issued in connection with
6 two acquisitions. In addition, Marvell filed 9 Forms S-8 between 2002 and 2006 to register shares
7 issued pursuant to its Employee Stock Purchase Plan and its Stock Option Plan, or in connection with
8 acquisitions. Dai signed the Forms S-3 and Forms S-8 as an officer and director of Marvell. The
9 forms incorporated by reference Marvell's false and misleading financial information that was
10 included in its Form 10-K filings.

11 41. Dai knew or was reckless in not knowing that Marvell's statements in its public
12 disclosures were false and misleading.

13 **E. Subsequent Events**

14 42. In May 2006, in response to public reports about possible backdating at Marvell and
15 other public companies, Marvell's Board of Directors appointed a Special Committee, comprised of
16 one independent director, to conduct an investigation into the Company's historical stock option
17 granting practices. In October 2006, Marvell announced that the Special Committee had discovered
18 evidence of backdating and that the Company intended to restate its historical financial statements.

19 43. Although Dai and Sutardja were identified in Company documents as the sole
20 members of Marvell's Stock Option Committee (and were the Company's two most senior
21 executives), the Special Committee did not interview Dai and Sutardja until February 2007,
22 approximately 10 months after it had been asked to investigate backdating at Marvell.

23 44. The Special Committee concluded its investigation in April 2007 and reported its
24 findings to Marvell's Board of Directors. It concluded that the Stock Option Committee did not meet
25 and that minutes reflecting Stock Option Committee meetings were false. It found that new hire and
26 secondary grants were backdated. In addition, as the Company later disclosed, the Special Committee
27 found that Marvell's employees involved in the stock option process did not feel able to provide Dai
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1 or Sutardja with frank advice, and that certain Marvell executives had failed to advise Dai about her
2 responsibilities and duties regarding stock options.

3 45. The Special Committee made recommendations to Marvell's Board of Directors.
4 Among other things, the Special Committee recommended that Marvell accept the resignation of
5 certain executives (including its Chief Financial Officer) and reform its stock option process. The
6 Special Committee recommended that Marvell seek to find a new Chairman of the Board to replace
7 Sutardja. As of April 2008, approximately one year later, Sutardja remains Marvell's Chairman.

8 46. The Special Committee also recommended that Dai have no continuing role with the
9 Company. The Board determined, however, that while Dai would step down from the Board and
10 from her position as Chief Operating Officer, Dai would continue to work for Marvell as Director of
11 Strategic Marketing and Business Development, with no authority over internal controls or financial
12 matters. Pantas Sutardja, Dai's brother-in-law, was named as acting COO to replace Dai, and, as of
13 April 2008, remained in that position.

14 **FIRST CLAIM FOR RELIEF**

15 *(Violations of Exchange Act Section 10(b) and Rule 10b-5 Thereunder by Defendants)*

16 47. The Commission realleges and incorporates by reference paragraphs 1 through 46.

17 48. By engaging in the conduct described above, Marvell and Dai, directly or indirectly, in
18 connection with the purchase or sale of securities, by the use of means or instrumentalities of
19 interstate commerce, or the mails, with scienter:

- 20 a. Employed devices, schemes, or artifices to defraud;
- 21 b. Made untrue statements of material facts or omitted to state material facts
22 necessary in order to make the statements made, in the light of the circumstances
23 under which they were made, not misleading; and
- 24 c. Engaged in acts, practices, or courses of business which operated or would operate
25 as a fraud or deceit upon other persons, including purchasers and sellers of
26 securities.

1 49. By reason of the foregoing, Marvell and Dai have violated and, unless restrained and
2 enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and
3 Rule 10b-5 [17 C.F.R. § 240.10b-5].

4 **SECOND CLAIM FOR RELIEF**

5 *(Violations of Securities Act Section 17(a)(1) by Defendants)*

6 50. The Commission realleges and incorporates by reference Paragraphs 1 through 46.

7 51. By engaging in the conduct described above, Marvell and Dai, directly or indirectly, in
8 the offer or sale of securities, by use of the means or instruments of transportation or communication
9 in interstate commerce or by use of the mails, with scienter, employed devices, schemes, or artifices
10 to defraud.

11 52. By reason of the foregoing, Marvell and Dai have violated and, unless restrained and
12 enjoined, will continue to violate Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

13 **THIRD CLAIM FOR RELIEF**

14 *(Violations of Securities Act Section 17(a)(2) by Marvell)*

15 53. The Commission realleges and incorporates by reference Paragraphs 1 through 46.

16 54. By engaging in the conduct described above, Marvell, directly or indirectly, in the
17 offer or sale of securities, by use of the means or instruments of transportation or communication in
18 interstate commerce or by use of the mails obtained money or property by means of untrue statements
19 of material fact or by omitting to state a material fact necessary in order to make the statements made,
20 in light of the circumstances under which they were made, not misleading.

21 55. By reason of the foregoing, Marvell has violated and, unless restrained and enjoined,
22 will continue to violate Section 17(a)(2) of the Securities Act [15 U.S.C. § 77q(a)(2)].

23 **FOURTH CLAIM FOR RELIEF**

24 *(Violations of Securities Act Section 17(a)(3) by Defendants)*

25 56. The Commission realleges and incorporates by reference Paragraphs 1 through 46.

26 57. By engaging in the conduct described above, Marvell and Dai, directly or indirectly, in
27 the offer or sale of securities, by use of the means or instruments of transportation or communication
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1 in interstate commerce or by use of the mails, engaged in transactions, practices, or courses of
2 business which operated or would operate as a fraud or deceit upon the purchasers.

3 58. By reason of the foregoing, Marvell and Dai have violated and, unless restrained and
4 enjoined, will continue to violate Section 17(a)(3) of the Securities Act [15 U.S.C. § 77q(a)(3)].

5 **FIFTH CLAIM FOR RELIEF**

6 *(False Periodic Reports – Violations of and Aiding and Abetting Violations of Exchange Act
7 Section 13(a) and Rules 12b-20, 13a-1, 13a-11, and 13a-13 Thereunder by Defendants)*

8 59. The Commission realleges and incorporates by reference Paragraphs 1 through 46.

9 60. Based on the conduct alleged above, Marvell violated Section 13(a) of the Exchange
10 Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder [17 C.F.R.
11 §§ 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13], which obligate issuers of securities
12 registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] to file with the Commission
13 accurate periodic reports, including annual, current, and quarterly reports.

14 61. By engaging in the acts and conduct alleged above, Dai knowingly provided
15 substantial assistance to Marvell's filing of materially false and misleading reports with the
16 Commission.

17 62. By reason of the foregoing, Dai aided and abetted Marvell's violations of
18 Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-11, and 13a-
19 13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13] thereunder. Unless restrained
20 and enjoined, Dai will continue to aid and abet such violations.

21 **SIXTH CLAIM FOR RELIEF**

22 *(False Books and Records – Violations of and Aiding and Abetting Violations of Exchange Act
23 Section 13(b)(2)(A) by Defendants)*

24 63. The Commission realleges and incorporates by reference Paragraphs 1 through 46.

25 64. Based on the conduct alleged above, Marvell violated Section 13(b)(2)(A) of the
26 Exchange Act [15 U.S.C. § 78m(b)(2)(A)], which obligates issuers of securities registered pursuant to
27 Section 12 of the Exchange Act [15 U.S.C. § 78l] to make and keep books, records and accounts
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1 which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets
2 of the issuer.

3 65. By engaging in the acts and conduct alleged above, Dai knowingly provided
4 substantial assistance to Marvell's failure to make and keep books, records, and accounts which, in
5 reasonable detail, accurately and fairly reflect its transactions and dispositions of its assets.

6 66. By reason of the foregoing, Dai aided and abetted violations by Marvell of
7 Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)]. Unless restrained and
8 enjoined, Dai will continue to aid and abet such violations.

9 **SEVENTH CLAIM FOR RELIEF**

10 *(Inadequate Internal Accounting Controls – Violations of Exchange Act
Section 13(b)(2)(B) by Marvell)*

11 67. The Commission realleges and incorporates by reference Paragraphs 1 through 46.

12 68. Based on the conduct above, Marvell violated Section 13(b)(2)(B) of the Exchange
13 Act [15 U.S.C. § 78m(b)(2)(B)], which obligates issuers of securities registered pursuant to
14 Section 12 of the Exchange Act [15 U.S.C. § 78l] to devise and maintain a sufficient system of
15 internal accounting controls. Unless restrained and enjoined, Marvell will continue to violate
16 Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)].

17 **EIGHTH CLAIM FOR RELIEF**

18 *(Falsifying Books and Records or Circumventing Internal Accounting Controls—
Violations of Exchange Act Section 13(b)(5) by Dai)*

19 69. The Commission realleges and incorporates by reference Paragraphs 1 through 46.

20 70. By the conduct alleged above, Dai violated Section 13(b)(5) of the Exchange Act
21 [15 U.S.C. § 78m(b)(5)] which prohibits anyone from knowingly circumventing a system of internal
22 accounting, or knowingly falsifying certain books, records, and accounts.

23 71. By reason of the foregoing, Dai violated and, unless restrained and enjoined, will
24 continue to violate Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)].

25 **NINTH CLAIM FOR RELIEF**

26 *(Falsifying Books and Records—Violations of Exchange Act Rule 13b2-1 by Dai)*

27 72. The Commission realleges and incorporates by reference Paragraphs 1 through 46.

1 73. By engaging in the conduct described above, Dai falsified or caused to be falsified
2 Marvell's books, records, and accounts in violation of Rule 13b2-1 under the Exchange Act
3 [17 C.F.R. § 240.13b2-1].

4 74. By reason of the foregoing, Dai has violated and, unless restrained and enjoined, will
5 continue to violate Rule 13b2-1 under the Exchange Act [17 C.F.R. § 240.13b2-1].

6 **TENTH CLAIM FOR RELIEF**

7 *(False Proxy Statements—Violations of Exchange Act*
8 *Section 14(a) and Rule 14a-9 Thereunder by Defendants)*

8 75. The Commission realleges and incorporates by this reference Paragraphs 1 through 46.

9 76. Based on the conduct alleged above, Marvell and Dai violated Section 14(a) of the
10 Exchange Act [15 U.S.C. § 78n(a)] and Rule 14a-9 thereunder [17 C.F.R. § 240.14a-9], which
11 prohibits solicitations by means of a proxy statement, form of proxy, notice of meeting, or other
12 communication, written or oral, that contains a statement which, at the time and in the light of the
13 circumstances under which it was made, was false or misleading with respect to any material fact, or
14 which omits to state any material fact necessary in order to make the statements therein not false or
15 misleading or necessary to correct any statement in any earlier communication with respect to the
16 solicitation of a proxy for the same meeting or subject matter which had become false or misleading.

17 77. By reason of the foregoing, Marvell and Dai violated, and unless restrained and
18 enjoined, will continue to violate Section 14(a) of the Exchange Act [15 U.S.C. § 78n(a)] and
19 Rule 14a-9 [17 C.F.R. § 240.14a-9] thereunder.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, the Commission respectfully requests that this Court:

22 I.

23 Permanently enjoin Marvell from directly or indirectly violating Section 17(a) of the
24 Securities Act [15 U.S.C. § 77q(a) and Sections 10(b), 13(a), 13(b)(2)(A), 13(b)(2)(B) and 14(a) of
25 the Exchange Act [15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A), 78m(b)(2)(B), and 78n(a)] and
26 Rules 10b-5, 12b-20, 13a-1, 13a-11, 13a-13, and 14a-9 [17 C.F.R. §§ 240.10b-5, 240.12b-20,
27 240.13a-1, 240.13a-11, 240.13a-13 and 240.14a-9] thereunder.

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II.

Permanently enjoin Dai from directly or indirectly violating Section 17(a)(1) and (3) of the Securities Act [15 U.S.C. § 77q(a)(1) and (3)] and Sections 10(b), 13(b)(5) and 14(a) of the Exchange Act [15 U.S.C. §§ 78j(b), 78m(b)(5), and 78n(a)], and Rules 10b-5, 13b2-1 and 14a-9 thereunder [17 C.F.R. §§ 240.10b-5, 13b2-1, and 240.14a-9], and from aiding and abetting violations of Sections 13(a) and 13(b)(2)(A) of the Exchange Act [15 U.S.C. §§ 78m(a) and 78m(b)(2)(A)] and Rules 12b-20, 13a-1, 13a-11, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13] thereunder.

III.

Order Marvell to pay a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)].

IV.

Order Dai to pay a civil penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)].

V.

Prohibit Dai, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], from serving as an officer or director of any entity having a class of securities registered with the Commission pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

VI.

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

VII.

Grant such other and further relief as this Court may determine to be just and necessary.

DATED: May 8, 2008

Respectfully Submitted,



Robert L. Tashjian
Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION

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