

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE HEARTWARE INTERNATIONAL, INC.  
SECURITIES LITIGATION

No. 1:16-cv-00520-RA

**NOTICE OF LEAD PLAINTIFF'S MOTION FOR  
APPROVAL OF DISTRIBUTION PLAN**

TO: All Counsel of Record

PLEASE TAKE NOTICE that, upon (i) the Declaration of Richard Simmons in Support of Lead Plaintiff's Motion for Approval of Distribution Plan (the "Simmons Declaration")<sup>1</sup> submitted on behalf of the Court-approved Claims Administrator, Analytics Consulting, LLC ("Analytics"); (ii) the Memorandum in Support of Lead Plaintiff's Motion for Approval of Distribution Plan; and (iii) all other papers and proceedings herein, Lead Plaintiff, St. Paul Teachers' Retirement Fund Association ("Lead Plaintiff"), on behalf of itself and the Class, will and hereby does move this Court for entry of the accompanying [Proposed] Order Approving Distribution Plan, which will, *inter alia*: (i) approve the administrative determinations of Analytics accepting and rejecting Claims submitted in connection with the Settlement reached in the above-captioned Action as stated in the Simmons Declaration; (ii) direct the Initial Distribution of the Net Settlement Fund to Claimants whose Claims are accepted by Analytics as valid and approved by the Court ("Authorized Claimants"), while maintaining a Reserve to address any tax liability and claims administration-related contingencies that may arise; (iii) direct that distribution checks

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<sup>1</sup> All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in the Simmons Declaration and in the Stipulation and Agreement of Settlement dated November 13, 2018, previously filed with the Court (ECF No. 69-1) (the "Stipulation").

state that the check must be cashed within 90 days after the issue date; (iv) direct that Authorized Claimants will forfeit all recovery from the Settlement if they fail to cash their distribution checks in a timely manner; (v) approve the recommended plan for any funds remaining after the Initial Distribution; (vi) approve Analytics' fees and expenses incurred and estimated to be incurred in connection with the administration of the Settlement; (vii) release claims related to the administration process; (viii) authorize the destruction of Proofs of Claim and supporting documents at an appropriate time; and (ix) provide that the Court retains jurisdiction to consider any further applications concerning the administration of the Settlement, and such other and further relief as this Court deems appropriate.

Dated: April 3, 2020

**BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP**

*/s/ John Rizio-Hamilton*  
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