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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DREW SCHULTHESS,

Plaintiff,

vs.

MAGNACHIP SEMICONDUCTOR  
CORPORATION, YOUNG-JOON KIM,  
MELVIN KEATING, ILBOK LEE, CAMILLO  
MARTINO, GARY TANNER, NADER  
TAVAKOLI, and LIZ CHUNG.

Defendants.

Case No.:

COMPLAINT FOR:

- (1) Breach of Fiduciary Duties
- (2) Aiding and Abetting Breach of Fiduciary Duties
- (3) Violation of § 14(a) of the Securities Exchange Act of 1934
- (4) Violation of § 20(a) of the Securities Exchange Act of 1934

DEMAND FOR JURY TRIAL

Plaintiff, Drew Schulthess (“Plaintiff”), by and through his attorneys, files this action against the defendants, and alleges upon information and belief, except for those allegations that pertain to him, which are alleged upon personal knowledge, as follows:

**SUMMARY OF THE ACTION**

1. Plaintiff brings this stockholder action against MagnaChip Semiconductor Corporation (“MagnaChip” or the “Company”), the Company’s Board of Directors (the “Board” or the “Individual Defendants,”), and collectively with MagnaChip, the “Defendants”), for violations of Sections 14(a)

and 20(a) of the Securities and Exchange Act of 1934 (the “Exchange Act”), and for breaches of fiduciary duty as a result of the Individual Defendants’ efforts to sell the Company to South Dearborn Limited (“Parent”), and Michigan Merger Sub, Inc. (“Merger Sub,” and collectively with Parent, “Wise Road”) as a result of an unfair process for an unfair price and to enjoin an upcoming stockholder vote on a proposed all cash transaction acquiring all of the Company’s remaining outstanding shares, valued at approximately \$1.4 billion (the “Proposed Transaction”).

2. The terms of the Proposed Transaction were memorialized in a March 26, 2021 filing with the Securities and Exchange Commission (“SEC”) on Form 8-K attaching the definitive Agreement and Plan of Merger (the “Merger Agreement”). Under the terms of the Merger Agreement, Parent, a company which is controlled by Wise Road Capital, will acquire all of the remaining outstanding shares of MagnaChip’s common stock at a price of \$29.00 per share in cash. As a result, MagnaChip will become an indirect wholly-owned subsidiary of Wise Road.

3. Thereafter, on April 19, 2021, MagnaChip filed a Preliminary Preliminary Proxy on Schedule PREM14A (the “Preliminary Proxy”) with the SEC in support of the Proposed Transaction.

4. The Proposed Transaction is unfair and undervalued for a number of reasons. Significantly, the Preliminary Proxy describes an insufficient process in which the Board inefficiently conducted the sales process of the Company, including selling of a portion of the Company prior to entering into negotiations for a sale of the rest of the Company, and not creating a disinterested committee of directors to run the sales process until it had already been going on for several months.

5. In approving the Proposed Transaction, the Individual Defendants have breached their fiduciary duties of loyalty, good faith, due care and disclosure by, *inter alia*, (i) agreeing to sell MagnaChip without first taking steps to ensure that Plaintiff as a public stockholder of MagnaChip would obtain adequate, fair and maximum consideration under the circumstances; and (ii) engineering the Proposed Transaction to benefit themselves and/or Wise Road without regard for MagnaChip’s

public stockholders, including Plaintiff. Accordingly, this action seeks to enjoin the Proposed Transaction and compel the Individual Defendants to properly exercise their fiduciary duties to Plaintiff.

6. Next, it appears as though the Board has entered into the Proposed Transaction to procure for itself and senior management of the Company significant and immediate benefits with no thought to Plaintiff or the Company's public stockholders. For instance, pursuant to the terms of the Merger Agreement, upon the consummation of the Proposed Transaction, Company Board Members and executive officers will be able to exchange all Company equity awards for the merger consideration.

7. In violation of the Exchange Act and in further violation of their fiduciary duties, Defendants caused to be filed the materially deficient Preliminary Proxy on April 19, 2021 with the SEC in an effort to solicit stockholders including Plaintiff to vote their MagnaChip shares in favor of the Proposed Transaction. The Preliminary Proxy is materially deficient, deprives Plaintiff of the information needed to make an intelligent, informed and rational decision of whether to vote their shares in favor of the Proposed Transaction, and is thus in breach of the Defendants' fiduciary duties. As detailed below, the Preliminary Proxy omits and/or misrepresents material information concerning, among other things: (a) the sales process and in particular certain conflicts of interest for management; (b) the financial projections for MagnaChip, provided by MagnaChip to the Company's financial advisor J.P. Morgan Securities LLC ("J.P. Morgan"); and (c) the data and inputs underlying the financial valuation analyses, if any, that purport to support the fairness opinions created by J.P. Morgan and provides to the Company and the Board

8. Absent judicial intervention, the Proposed Transaction will be consummated, resulting in irreparable injury to Plaintiff. This action seeks to enjoin the Proposed Transaction or, in the event

the Proposed Transaction is consummated, to recover damages resulting from the breaches of fiduciary duties by Defendants.

### **PARTIES**

9. Plaintiff is a citizen of New Hampshire and, at all times relevant hereto, has been a MagnaChip stockholder.

10. Defendant MagnaChip together with its subsidiaries, designs, manufactures, and sells analog and mixed-signal semiconductor platform solutions for communications, Internet of Things, consumer, industrial, and automotive applications. MagnaChip is incorporated in Delaware and has its principal place of business at 1, Allée Scheffer, L-2520, Luxembourg, Grand Duchy of Luxembourg. Shares of MagnaChip common stock are traded on the NYSE under the symbol “MX.”

11. Defendant Young-Joon Kim (“Kim”) has been a Director of the Company at all relevant times. In addition, Kim serves as the Company’s Chief Executive Officer (“CEO”).

12. Defendant Melvin Keating (“Keating”) has been a director of the Company at all relevant times.

13. Defendant Ilbok Lee (“Lee”) has been a director of the Company at all relevant times.

14. Defendant Camillo Martino (“Martino”) has been a director of the Company at all relevant times. In addition, Martino serves as the Non-Executive Chairman of the Company Board.

15. Defendant Gary Tanner (“Tanner”) has been a director of the Company at all relevant times.

16. Defendant Nader Tavakoli (“Tavakoli”) has been a director of the Company at all relevant times.

17. Defendant Liz Chung (“Chung”) has been a director of the Company at all relevant times.

18. The defendants identified in paragraphs 11 through 17 are collectively referred to herein as the “Director Defendants” or the “Individual Defendants.”

19. Non-Defendant Wise Road is a global private equity firm that invests in leading technology companies. Wise Road is an exempted company incorporated in the Cayman Islands with limited liability.

20. Non-Defendant Merger Sub is a wholly owned subsidiary of Wise Road created to effect the Proposed Transaction.

### **JURISDICTION AND VENUE**

21. This Court has subject matter jurisdiction pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1331 (federal question jurisdiction) as Plaintiff alleges violations of Sections 14(a) and Section 20(a) of the Exchange Act. This action is not a collusive one to confer jurisdiction on a court of the United States, which it would not otherwise have.

22. Personal jurisdiction exists over each defendant either because the defendant conducts business in or maintains operations in this District, or is an individual who is either present in this District for jurisdictional purposes or has sufficient minimum contacts with this District as to render the exercise of jurisdiction over defendant by this Court permissible under traditional notions of fair play and substantial justice.

23. Venue is proper in this District pursuant to 28 U.S.C. § 1391, because each of the Individual Defendants, as Company officers or directors, has extensive contacts within this District; for example, the Company’s stock trades on the NYSE which is headquartered in this District.

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