UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RIGRODSKY LAW, P.A., Plaintiff, -against- NEONODE INC., ULF ROSBERG, PETER LINDELL, PER LÖFGREN, MATTIAS BERGMAN, LARS LINDQVIST, and URBAN FORSSELL, Defendants.	Case No. 21 Civ. 634 Removed from the Supreme Court of the State of New York, County of Nassau, Index No. 609405/2021

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendants Neonode Inc., Ulf Rosberg, Peter Lindell, Per Löfgren, Mattias Bergman, Lars Lindqvist, and Urban Forssell (together, "Defendants") hereby remove the above-captioned action from New York Supreme Court, Nassau County, to the United States District Court for the Eastern District of New York, and in support state as follows:

1. On July 26, 2021, plaintiff Rigrodsky Law, P.A. ("Plaintiff") initiated a civil action against Defendants in the Supreme Court of the State of New York, County of Nassau, captioned *Rigrodsky Law, P.A. v. Neonode Inc. et al.*, Index No. 609405/2021 (the "State Court Action").

2. Plaintiff purports to have served Defendants on September 9, 2021.[1] Copies of all process, pleadings, and orders purportedly served on Defendants are attached hereto as Exhibit A, pursuant to 28 U.S.C. § 1446(a).

[1] Process and service of process on Defendants were both insufficient. In removing this action to federal court, Defendants preserve and retain any and all defenses, including but not limited to, for insufficient process, insufficient service of process, lack of personal jurisdiction, and failure to state a claim upon which relief can be granted.

3. This Notice of Removal is timely because, even if process and service of process on Defendants were not insufficient (which they were), the 30-day period for removal would expire no sooner than October 9, 2021.

4. Defendants have not yet answered or otherwise responded to Plaintiff's complaint filed in the State Court Action.

5. The single cause of action raised by Plaintiff in its complaint filed in the State Court Action is for attorneys' fees allegedly owed in connection with Plaintiff's filing of a complaint in the United States District Court for the District of Delaware alleging that Defendants violated Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 in connection with the filing of a proxy statement with the United States Securities and Exchange Commission (the "Delaware District Court Action").[2] (*See* Complaint at ¶¶ 38, 59-63.)

6. Under the laws of the United States, federal law governs a claim, including the present one, for attorneys' fees when federal law governs the underlying substantive claims in connection with which the attorneys' fees have allegedly been earned. *Boeing Co. v. Van Gemert*, 444 U.S. 472 (1980) (applying federal law common benefit doctrine for attorneys' fees claims arising under federal law); *In re Johnson*, 756 F.2d 738, 740-41 (9th Cir. 1985) (holding that federal law governs claim for attorneys' fees when federal law governs the underlying substantive claims); *Hassen Imports P'Ship v. KWP Fin. VI*, 256 B.R. 916, 921 (B.A.P. 9th Cir 2000) (applying federal law to a claim seeking attorneys' fees because the substantive underlying claim arose under

[2] Plaintiff appears to have filed its present suit in the Supreme Court of New York, Nassau County, rather than seek fees from the court in which Plaintiff filed the underlying litigation—the United States District Court for the District of Delaware—in hopes of finding a forum that might be more hospitable to meritless claims of entitlement to fees like Plaintiff's claim. *See, e.g., Scott v. DST Systems, Inc.*, C.A. No. 1:18-cv-00286-RGA, 2019 WL 3997097, at *5 (D. Del. Aug. 23, 2019) (denying Plaintiffs' motions for attorney fees where supplemental disclosures mooted their lawsuits because plaintiffs "failed to carry their burden of establishing that they provided a substantial benefit to [the corporation's] stockholders by causing" the supplemental disclosures).

federal law); *Hernandez v. Berlin Newington Assocs., LLC*, C.A. No. 3:10-CV-01333 (VLB), 2016 WL 5339720, at *3 (D. Conn. Sept. 22, 2016) (holding "federal law governs the question of attorney's fees" when action is based on federal law) *aff'd*, 699 F. App'x 96 (2d Cir. 2017); *Franco v. Ruiz Food Prods.*, No. 1:10-cv-02354-SKO, 2012 WL 5941801, at *15 (E.D. Cal. Nov. 27, 2012) ("The attorneys' fees here will be awarded pursuant to federal law since the case is based on federal question under the FLSA."); *Greenawalt v. Sun City W. Fire. Dist.*, No. CV 98-1408 PHX-ROS, 2006 WL 5941801, at *1 (D. Ariz. June 10, 2006) ("Courts apply federal law to claims arising under federal law, including determination of underlying attorneys' fees awards."); *Atighi v. Green*, 317 B.R. 792, 795 (Bankr. C.D. Cal. 2004) ("All of the attorneys fees included in the notice of default were incurred in Atighi's prior bankruptcy case. The substantive issues in the bankruptcy case were governed by federal law and thus federal law, not state law, governs the award of attorneys fees.").

7. Plaintiff's action thus arises under the laws of the United States, over which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1331. Therefore, the action may be removed to this court by Defendants pursuant to 28 U.S.C. § 1441.

8. Defendants will promptly file a copy of this Notice of Removal to Federal Court with the Clerk of the New York Supreme Court, Nassau County, and will serve a copy upon Plaintiff's counsel of record.

9. Plaintiff has agreed to an extension of time for Defendants to respond to the complaint until November 11, 2021. Therefore, unless otherwise agreed by the parties or ordered by the Court, Defendants will respond the complaint on or before November 11, 2021.

WHEREFORE, Defendants request that State Court Action be removed to this Court.

Dated: October 8, 2021
New York, New York

REED SMITH LLP

By: */s/ Casey D. Laffey*
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Attorneys for Defendants

CERTIFICATE OF SERVICE

I, Casey D. Laffey, hereby certify that on October 8, 2021, I caused to be served a true and correct copy of the foregoing via first class mail and email to:

Gina M. Serra, Esq.
Rigrodsky Law, P.A.
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gms@rl-legal.com

Counsel for Plaintiff

By ___*/s/ Casey D. Laffey*___
Casey D. Laffey

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

RIGRODSKY LAW, P.A.,	:	Index No.
Plaintiff,	:	SUMMONS
v.	:	
NEONODE INC., ULF ROSBERG, PETER LINDELL, PER LÖFGREN, MATTIAS BERGMAN, LARS LINDQVIST, and URBAN FORSSELL,	:	
Defendants.	:	

To the above-named defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates Nassau County as the place of trial. The basis of venue is, *inter alia*, that defendants committed a substantial portion of the transactions and wrongs complained in this County and plaintiff's headquarters are located in this County.

Dated: July 26, 2021

RIGRODSKY LAW, P.A.

By: */s/ Gina M. Serra*

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

RIGRODSKY LAW, P.A.,	X :	
	:	Index No.
Plaintiff,	:	
	:	**COMPLAINT FOR ATTORNEYS' FEES AND EXPENSES**
v.	:	
	:	**JURY TRIAL DEMANDED**
NEONODE INC., ULF ROSBERG, PETER LINDELL, PER LÖFGREN, MATTIAS BERGMAN, LARS LINDQVIST, and URBAN FORSSELL,	:	
	:	
Defendants.	:	
	X	

Plaintiff Rigrodsky Law, P.A. ("Rigrodsky Law" or "Plaintiff"), for its complaint against Defendants (defined below), alleges the following upon knowledge, information, and/or belief:

NATURE OF THE ACTION

1. Plaintiff brings this action against defendants Neonode Inc. ("Neonode" or the "Company") and its former Board of Directors (the "Board" or "Individual Defendants"), Ulf Rosberg ("Rosberg"), Peter Lindell ("Lindell"), Per Löfgren ("Löfgren"), Mattias Bergman ("Bergman"), Lars Lindqvist ("Lindqvist"), and Urban Forssell ("Forssell"), to recover Plaintiff's attorneys' fees and expenses incurred in connection with Plaintiff's successful efforts to cause Neonode to make additional material disclosures to its shareholders in connection with the proposed issuance of shares of Neonode common stock (the "Private Placement").

2. On August 20, 2020, Defendants disseminated a materially incomplete proxy statement (the "Proxy Statement") with the United States Securities and Exchange Commission ("SEC").

3. The Proxy Statement scheduled a meeting of Neonode's stockholders for September 29, 2020 to vote upon the following proposals, among others:

> To approve, for purposes of complying with Nasdaq Listing Rule 5635(d), the issuance of shares of common stock underlying Preferred Stock sold in Neonode's August 5, 2020 private placement; [and]
>
> To approve, for purposes of complying with Nasdaq Listing Rule 5635(c), the issuance of shares of common stock underlying Preferred Stock sold to directors and an officer of Neonode in Neonode's August 5, 2020 private placement[.]

4. The Proxy Statement omitted material information, which rendered the Proxy Statement false and misleading.

5. Accordingly, on September 2, 2020, Plaintiff, on behalf of Jordan Rosenblatt, a stockholder of the Company ("Stockholder"), filed a Complaint in the United States District Court for the District of Delaware alleging that Defendants violated Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 (the "1934 Act") in connection with the Proxy Statement (the "Federal Complaint") (Ex. A).

6. The Federal Complaint alleged that the Proxy Statement failed to disclose material information related to the Private Placement, including: (i) the Company's financial and/or other advisors in connection with the Private Placement and the terms of their engagements; (ii) a fair summary of the process and negotiations leading up to the Private Placement as well as the approval process of the Private Placement; (iii) the roles played by Defendants Rosberg, Lindell, and Forssell in the process leading up to the Private Placement and its approval; and (iv) the nature of any alternatives to the Private Placement that were considered by the Company's officers and directors.

7. The Federal Complaint alleged that the omission of the above-referenced material information rendered the Proxy Statement false and misleading, and that the above-referenced

omitted information, if disclosed, would have significantly altered the total mix of information available to the Company's stockholders prior to their vote on the Private Placement.

8. On September 4, 2020, Plaintiff, on behalf of Stockholder, sent a demand letter to Defendant's counsel demanding that the Company make the disclosures cited in the Federal Complaint.

9. On August 25, 2020, another purported stockholder, Robert Garfield, filed a class action complaint in the Delaware Court of Chancery (the "Chancery Complaint").

10. On September 18, 2020, Defendants filed a Form 14A with the SEC containing supplemental disclosures (the "Supplemental Disclosures") (Ex. B).

11. The Supplemental Disclosures provided precisely the information the Federal Complaint had alleged was missing from the Proxy Statement.

12. Indeed, Defendants admitted in the Supplemental Disclosures that the disclosures were made in response to the Federal Complaint and the Chancery Complaint.

13. The stockholder vote on the Private Placement was held on September 29, 2020, at which time the Private Placement was approved by the Company's stockholders.

14. As the claims in the Federal Complaint were mooted by Defendants' Supplemental Disclosures, on October 20, 2020, Plaintiff filed a Notice of Voluntary Dismissal of the Federal Complaint.

15. Following the stockholder vote on the Private Placement, and the filing of the Notice of Voluntary Dismissal, Plaintiff attempted to negotiate in good faith with counsel for Defendants regarding reasonable attorneys' fees and expenses for the substantial common benefit that the Supplemental Disclosures provided to the Company's stockholders.

16. However, counsel for Defendants refused to negotiate and refused to agree to pay any fees or expenses to Plaintiff.

17. On the other hand, counsel for Defendants agreed to pay attorneys' fees and expenses to counsel for plaintiff in the Chancery Action in the amount of $400,000 in connection with the claims that were mooted in the Chancery Action by the Supplemental Disclosures.

18. Through this action, Plaintiff seeks attorneys' fees and expenses in the amount of $400,000.

JURISDICTION AND VENUE

19. This Court has jurisdiction over the Defendants named herein pursuant to New York Civil Practice Law and Rules ("CPLR") § 301 and/or 302. This Court has personal jurisdiction over Defendants because, among other things, Plaintiff's headquarters are located in this County. The exercise of jurisdiction by this Court is permissible under traditional notions of fair play and substantial justice.

20. Venue is proper in this Court pursuant to CPLR § 503. Among other things, Plaintiff's headquarters are located in this County.

PARTIES

21. Plaintiff is a professional association organized under the laws of the State of Delaware with headquarters located at 825 East Gate Boulevard, Suite 300, Garden City, New York 11530. Rigrodsky Law was counsel for Stockholder.

22. Defendant Neonode is a Delaware corporation and maintains its principal executive offices at Storgatan 23C, 114 55 Stockholm, Sweden. Neonode's common stock is traded on the NASDAQ Capital Market under the ticker symbol "NEON."

23. Defendant Rosberg is Chairman of the Board of the Company.

24. Defendant Lindell is a director of the Company.

25. Defendant Löfgren is a director of the Company.

26. Defendant Bergman is a director of the Company.

27. Defendant Lindqvist was a director of the Company at the time of the Private Placement.

28. Defendant Forssell was Chief Executive Officer ("CEO") of the Company at the time of the Private Placement.

SUBSTANTIVE ALLEGATIONS

Background of the Company and the Private Placement

29. Neonode develops optical touch and gesture control solutions for human-machine interface with devices and remote sensing solutions for driver and cabin monitoring features in automotive and other application areas.

30. The Company's main business model is to license its technology to Original Equipment Manufacturers and Tier 1 system suppliers who embed the Company's technology into systems and products they develop, manufacture, and sell.

31. On August 5, 2020, the Company issued a press release announcing the $13.9 million Private Placement:

> Neonode Inc. (NASDAQ: NEON), today announced it has entered into definitive agreements with institutional and accredited investors, including insiders of the Company, for the private placement of $13.9 million of Neonode's common stock and convertible preferred stock (the "Private Placement").
>
> Pursuant to the terms of the Private Placement, Neonode has agreed to sell an aggregate total of 1,611,845 shares of common stock (the "Common Shares") at a price of $6.50 per Common Share, and 3,415 shares of convertible preferred stock (the "Convertible Preferred Shares") with a conversion price of $6.50 per share and a stated value of $1,000 per Convertible Preferred Share.

> Ulf Rosberg and Peter Lindell, directors of Neonode (the "Directors"), and Urban Forssell, Chief Executive Officer of Neonode, have agreed to purchase an aggregate of $3.05 million of the Convertible Preferred Shares in the Private Placement.
>
> In addition, Neonode will issue 1,033 shares of Convertible Preferred Shares to the Directors to repay $1 million of outstanding indebtedness owed to the Directors under loan agreements dated June 17, 2020.
>
> The Convertible Preferred Shares are convertible into an aggregate of 684,378 shares of common stock. The Convertible Preferred Shares will automatically convert into common stock upon stockholder approval, of which Neonode has agreed to seek at the earliest possible date. Neonode also will seek stockholder approval with respect to the issuance of shares to the Directors and the Chief Executive Officer in accordance with Nasdaq listing rules.
>
> Neonode has also agreed to file, within thirty days, a registration statement with the SEC to register the resale of the Common Shares and the shares of common stock underlying the Convertible Preferred Shares.
>
> Neonode expects to close the Private Placement on or about August 7, 2020, subject to the satisfaction of customary closing conditions.
>
> Craig-Hallum Capital Group LLC is acting as exclusive placement agent in connection with the offering.

The Proxy Statement Omitted Material Information

32. On August 20, 2020, Defendants filed the Proxy Statement with the SEC, which scheduled a meeting of Neonode's stockholders for September 29, 2020, to vote upon the following proposals, among others:

> To approve, for purposes of complying with Nasdaq Listing Rule 5635(d), the issuance of shares of common stock underlying Preferred Stock sold in Neonode's August 5, 2020 private placement; [and]
>
> To approve, for purposes of complying with Nasdaq Listing Rule 5635(c), the issuance of shares of common stock underlying Preferred Stock sold to directors and an officer of Neonode in Neonode's August 5, 2020 private placement[.]

33. However, as set forth below, the Proxy Statement omitted material information.

34. As alleged in the Federal Complaint, the Proxy Statement failed to disclose: (i) the Company's financial and/or other advisors in connection with the Private Placement and the terms

of their engagements; (ii) a fair summary of the process and negotiations leading up to the Private Placement as well as the approval process of the Private Placement; (iii) the roles played by Defendants Rosberg, Lindell, and Forssell in the process leading up to the Private Placement and its approval; and (iv) the nature of any alternatives to the Private Placement that were considered by the Company's officers and directors.

35. The omission of the above-referenced material information rendered the Proxy Statement false and misleading.

36. The omitted information, if disclosed, would have significantly altered the total mix of information available to the Company's stockholders.

The Federal and Chancery Actions were Filed

37. On August 25, 2020, Robert Garfield filed the Chancery Complaint in the Delaware Court of Chancery.

38. On September 2, 2020, Plaintiff, on behalf of Stockholder, filed the Federal Complaint in the United States District Court for the District of Delaware alleging that Defendants violated Sections 14(a) and 20(a) of the 1934 Act in connection with the Proxy Statement.

39. The Federal Complaint named Neonode and its Board as defendants.

40. The Federal Complaint sought: (i) an Order preliminarily and permanently enjoining Defendants and all persons acting in concert with them from proceeding with the September 29, 2020 stockholder vote; (ii) an Order directing Defendants to disseminate a Proxy Statement that did not contain any untrue statements of material fact and that stated all material facts required in it or necessary to make the statements contained therein not misleading; (iii) a declaration that Defendants violated Sections 14(a) and/or 20(a) of the 1934 Act, as well as Rule 14a-9 promulgated thereunder; (iv) costs and attorneys' fees; and (v) such other and further relief

the Court deemed appropriate.

Defendants filed the Supplemental Disclosures in Response to the Federal Complaint and the Chancery Complaint

41. On September 18, 2020, Defendants filed a Form 14A with the SEC containing extensive Supplemental Disclosures. Ex. B.

42. The Supplemental Disclosures specifically addressed and provided the precise information the Federal Complaint had alleged was missing from the Proxy Statement.

43. Specifically, the Supplemental Disclosures contained the following material information that directly correlates with the allegations and demands made in the Federal Complaint:

> **Description of the Private Placement**
>
> The Private Placement was approved by the three disinterested members of the Board. The other two directors, Mr. Rosberg and Mr. Lindell, were present during the Board deliberations and vote on the Private Placement but abstained from voting due to their interest in the Private Placement.[1] . . .
>
> **Background and Reasons for the Private Placement[2]**
>
> On March 31, 2020, the closing price of our common stock (as reflected on Nasdaq.com) was $1.77 per share. During the next 30 days, the share price increased substantially. On April 30, 2020, the closing price of our common stock (as reflected on Nasdaq.com) was $5.22 per share, representing a nearly 300% increase in one month.
>
> We believe the increase in our common stock share price has been due in part to our business strategy and focus on contactless touch technology. As a result of the Covid-19 pandemic, manufacturers, suppliers, and consumers have increasingly demanded products that avoid the need for surface contact. Our sensor modules and

[1] Addressing paragraph 31 of the Federal Complaint ("The Proxy Statement fails to disclose the roles Individual Defendants Rosberg, Lindell, and Forssell played in the process leading up to the Private Placement and its approval.").

[2] The below description addressing paragraph 30 of the Federal Complaint ("The Proxy Statement fails to disclose a fair summary of the process and negotiations leading up to the Private Placement as well as the approval process of the Private Placement.").

remote sensing services provide a contactless touch solution in response to that demand.

While we believe our technology has resulted in an increase in customer interest and improved our long-term growth potential, the Covid-19 pandemic negatively impacted our company in the short-term due to the global economic slowdown. On May 13, 2020, we announced our financial results for the March 31, 2020 quarter, reporting a 35% decrease in net sales and a 40% higher net loss than the same period in 2019.

Historically, we have raised funds for working capital through the sale of common stock and warrants. In 2015, using a shelf registration, we sold common stock in an underwritten offering for approximately $6 million in gross proceeds. In 2016, we sold common stock and warrants in a private placement for approximately $9 million in gross proceeds. In 2017, we sold common stock and warrants in a private placement for approximately $10 million in gross proceeds. In 2018, we sold common stock without warrants in a private placement for approximately $5 million in gross proceeds.

For a potential capital raise in 2020, our ability to raise additional funds through the sale of common stock was limited due to corporate and regulatory factors.

- The number of shares of common stock our company could issue is subject to our available authorized shares of common stock under our Certificate of Incorporation as described in the Proxy Statement (see Proposal 7 on page 32). Prior to the Private Placement, we could issue, directly or upon exercise of warrants or conversion of preferred stock, a maximum of 4.8 million shares of common stock without obtaining stockholder approval.

- In the absence of a public registered offering, a private placement of our common stock would be subject to the Nasdaq limitation described in the Proxy Statement (see "Proposal to Approve Issuance of Additional Shares of Common Stock" of this Proposal 5 on page 27) regarding the issuance of 20% or more of our outstanding shares at a discount. With 9.2 million shares of common stock outstanding, our company could sell 1.8 million shares without obtaining stockholder approval.

  Further, our shelf registration of $20 million shares of common stock expired on March 15, 2020. The amount we could register under a replacement shelf registration at that time was substantially less due to the low share price of our common stock and SEC rule limitations.

  Based upon our funding requirements and history, the Board and management of our company targeted a raise of a minimum of $10 million in new capital. Depending on investor demand and subject to the corporate and regulatory limits described above, the Board and management hoped to raise more than $10 million

if possible. Although including a warrant may have resulted in a higher price per share of common stock sold, warrants would result in a lower effective price, an overhang on our common stock for multiple years, and a reduction in the number of available authorized shares of common stock without necessarily generating proceeds to our company. As such, the Board and management focused on a capital raise solely of common stock but, if appropriate due to the corporate and regulatory limits described above, the Board and management would consider including a convertible security subject to stockholder approval.

Ulf Rosberg, Urban Forssell, Maria Ek, and David Brunton served on behalf of our company to negotiate the structure and terms of a private placement with potential investment banks and investors, including the Private Placement that was ultimately completed. Mr. Rosberg is the Chairman of the Board and has a background in investment banking. Mr. Forssell as Chief Executive Officer and Ms. Ek as Chief Financial Officer are the sole executive officers of our company. Mr. Brunton is a consultant to the company, is responsible for managing U.S. investor relations for our company, and formerly served as chief financial officer of our company and oversaw prior capital raise transactions by our company. Although neither Ms. Ek nor Mr. Brunton invested in the Private Placement, Mr. Rosberg and Mr. Forssell did. The Board considered whether Mr. Rosberg and Mr. Forssell's negotiation of and participation in the Private Placement was a conflict of interest. The Board was updated throughout the negotiation process at each stage described below and including the Private Placement. Rimon, P.C. served as our company's outside legal counsel throughout the negotiation process, including in connection with the Private Placement that was ultimately completed.

In March 2020, we engaged a European investment bank to assist our company in raising capital.[3] Our company's headquarters, management team, and operations are located in Sweden. We also announced in March 2020 that the Board was evaluating a dual listing on the Nasdaq Stockholm in Sweden in addition to our existing listing on the Nasdaq in the U.S. Engaging a European investment bank furthered the Board's goals of raising capital and listing on Nasdaq Stockholm. During April and May 2020, the Board and management participated in negotiations involving the European investment bank on structuring a transaction to comply with both Swedish and U.S. standards. The negotiations also related to pricing, particularly in light of the increase in the share price of our common stock between March 2020 and May 2020. By June 2020, we terminated our engagement with the investment bank. We determined that it would be beneficial if our share price stabilized at a higher level to generate demand from potential investors. We also determined that our company could raise capital at a future period in 2020 and at a lower discount to the price at which our common stock publicly traded, potentially in the U.S. markets.

[3] Addressing paragraph 29 of the Federal Complaint ("The Proxy Statement fails to disclose the Company's financial and/or other advisors in connection with the Private Placement and the terms of their engagements.").

Although the Board believed we could – and ultimately did – obtain better pricing in a capital raise later in the year, our company had short-term funding requirements. Our cash balance of approximately $1.2 million as of March 31, 2020 had continued to decrease in April and May 2020. As a result, in June 2020, the Board approved entering into short-term loan facilities of an aggregate of approximately $3.4 million (the "Loan Agreements") with each of Mr. Rosberg and Mr. Lindell as described in the Proxy Statement (see Certain Relationships and Related Transactions, and Director Independence on page 34). The Loan Agreements were approved by the three disinterested members of the Board. The other two directors, Mr. Rosberg and Mr. Lindell, did not participate in the voting due to their interest in the Loan Agreements.[4] The Loan Agreements provided for a credit fee of 0.75% per annum and incurred interest at a fixed rate of 3.25% per annum. Upon entering into the Loan Agreements, we made an initial drawdown of an aggregate of $1 million to address our short-term funding requirements. The Loan Agreements provided that if our company carried out a capital raise before December 31, 2020, any outstanding amount under the Loan Agreements would become due and payable.

In July 2020, our company engaged a U.S. investment bank, Craig-Hallum Capital Group, LLC ("Craig-Hallum"), to assist in a potential private placement. We selected Craig-Hallum as placement agent based in part on its prior success raising capital on behalf of our company. The role of a placement agent includes formulating a strategy to solicit, and assist in negotiations with, potential investors. The terms of the engagement provided that we could not negotiate with another investment bank for an offering of our securities for a certain period while Craig-Hallum was serving as placement agent. The terms of the engagement also provided that Craig-Hallum would receive a fee as placement agent based upon a tiered rate consisting of a percentage fee of gross proceeds raised from investors identified by Craig-Hallum, a lower percentage fee of gross proceeds raised from investors (including Mr. Forssell) identified by our company, but no fee on gross proceeds attributable to the financing commitment previously made by Mr. Rosberg and Mr. Lindell through the Loan Agreements. Craig-Hallum would not have been entitled to a fee if a private placement did not occur. This tiered rate percentage ultimately resulted in our company paying a placement agent fee of $659,070 to Craig-Hallum.[5]

To address the corporate and regulatory limits described above, we agreed to structure an offering to include common stock and convertible preferred stock subject to stockholder approval up to a maximum of 4.8 million shares of common stock, direct and as converted. This offering structure resulted in the Private Placement described in the Proxy Statement and this Proposal 5. The preferred stock offered a dividend of 5% per annum, but would automatically convert to

[4] Addressing paragraph 31 of the Federal Complaint.

[5] Addressing paragraph 29 of the Federal Complaint.

common stock upon shareholder approval (as contemplated by this Proposal 5 but subject as applicable to the additional shareholder approval in Proposal 6) at a meeting of stockholders within 75 days. Potential investors were given the opportunity to choose between common stock and preferred stock. While preferred stock offered a dividend until conversion, common stock offered more liquidity.

Throughout June and July 2020, our share price continued to increase (as reflected on Nasdaq.com). On June 1, 2020, the closing price of our common stock was $4.53 per share. On July 1, 2020, the closing price of our common stock was $8.71 per share. On July 31, 2020, the closing price of our common stock was $9.24 per share. The July 31 closing price of $9.24 represented an increase of more than 500% in the four months since the March 31 closing price of $1.77.

In addition, our company was scheduled on August 14, 2020 to release earnings for the quarter ended June 30, 2020. Because our company was in possession of the expected financial results for the completed quarter, we shared the information confidentially with potential purchasers in the Private Placement. Management's expectations of revenues for the second quarter of 2020 ranged between $650,000 and $850,000, a decrease of approximately 62% to 50% compared to the second quarter of 2019. Management's expectations of net loss per share for the second quarter of 2020 ranged between $(0.17) to $(0.21), a higher net loss per share of approximately 21% to 50% compared to the second quarter of 2019.

In view of the increase in our share price over a short period and our management's expected financial results, investor demand for the private placement was lower than the Board anticipated. To raise the intended minimum of $10 million to support our continuing operations, the Board agreed on August 5, 2020 to enter into the Securities Purchase Agreement to sell stock at a price of $6.50 per share and the terms of the Private Placement set forth on page 26 of the Proxy Statement. . . .

We believe that the Private Placement, which yielded gross proceeds of approximately $13.9 million as well as the repayment of $1.03 million of outstanding indebtedness owed to Mr. Rosberg and Mr. Lindell, was advisable in light of our cash balance and funding requirements. We also believe that the terms were reasonable in light of market conditions and the size and type of the financing. Among the factors considered were (i) the company's low cash balance, (ii) the company's cash burn rate, (iii) the degradation in the company's earnings, (iv) the immediate need to strengthen the company's cash position, including to take advantage of potential long-term growth opportunities, (v) the need for the company to focus its talent and resources on executing its business plan, (vi) the rapid increase in the trading price of the company's common stock, (vii) the absence of a warrant component to the Private Placement, and (viii) the high degree of uncertainty in the market caused by the Covid-19 pandemic. In addition, the Board considered alternatives to the Private Placement (including, primarily, the potential to engage another investment bank to assist with a capital raise at some later date after the exclusivity period with Craig-Hallum expired), none of which,

in the opinion of the Board, would have resulted in aggregate terms equivalent to, or more favorable than, the terms obtained in the Private Placement.[6] . . .

Description of the Private Placement

The Private Placement – including the participation of the Insiders in the Private Placement – was approved by the three disinterested members of the Board. The other two directors, Mr. Rosberg and Mr. Lindell, were present during the Board deliberations and vote on the Private Placement but abstained from voting due to their interest in the Private Placement. . . .

The Loan Agreements were approved by the three disinterested members of the Board. The other two directors, Mr. Rosberg and Mr. Lindell, did not participate in the voting due to their interest in the Loan Agreements.[7] . . .

We believe that the Private Placement, which yielded gross proceeds of approximately $13.9 million as well as the repayment of $1.03 million of outstanding indebtedness owed to the Directors, was advisable in light of our company's cash balance and funding requirements. We also believe that the terms were reasonable in light of market conditions and the size and type of the financing. Among the factors considered were (i) the company's low cash balance, (ii) the company's cash burn rate, (iii) the degradation in the company's earnings, (iv) the immediate need to strengthen the company's cash position, including to take advantage of potential long-term growth opportunities, (v) the need for the company to focus its talent and resources on executing its business plan (vi) the rapid increase in the trading price of the company's common stock, (vii) the absence of a warrant component to the Private Placement, and (viii) the high degree of uncertainty in the market caused by the Covid-19 pandemic. In addition, the Board considered alternatives to the Private Placement (including, for example, the potential to engage another investment bank to assist with a capital raise at some later date after the exclusivity period with Craig-Hallum expired), none of which, in the opinion of the Board, would have resulted in aggregate terms equivalent to, or more favorable than, the terms obtained in the Private Placement.[8] . . .

On June 16, 2020, the day before Mr. Rosberg and Mr. Lindell entered into the Loan Agreements, the closing price of our common stock (as reflected on Nasdaq.com) was $5.23 per share. Further, the terms of the engagement with Craig-Hallum as placement agent provided that it would not receive any fee attributable

[6] Addressing paragraph 32 of the Federal Complaint ("The Proxy Statement fails to disclose the nature of any alternatives to the Private Placement that were considered by the Company's officers and directors.").

[7] Addressing paragraph 31 of the Federal Complaint.

[8] Addressing paragraph 32 of the Federal Complaint.

to the aggregate of $3.4 million commitment by Mr. Rosberg and Mr. Lindell under the Loan Agreements.

Under the Loan Agreements, we were obligated to pay a credit fee of 0.75% and interest at a rate of 3.25%, which in the absence of the Private Placement may have continued until December 31, 2020 or later. By entering into the Private Placement in August 2020 and repaying the Loan Agreements, our company was not otherwise obligated to pay interest for the approximately 150 days remaining until December 2020. While the Preferred Stock issued in the Private Placement obligates our company to pay a dividend at a rate of 5.0%, the obligation will end if and when shareholder approval is obtained pursuant to Proposal 5 and this additional shareholder approval in Proposal 6. If the proposals are approved, the dividend payment obligation will exist only for approximately 50 days, during which time no interest will have accrued under the repaid Loan Agreements. . . .

Prior to the Private Placement, Mr. Forssell did not beneficially own any shares of our common stock. Our company's equity compensation plan expired by its terms less than four months after Mr. Forssell became Chief Executive Officer. The Board believes it is important for the Chief Executive Officer to have an equity ownership position in our company. Participation in the Private Placement enabled Mr. Forssell to gain such equity ownership by means of a single acquisition and with the approval of the Board. Because Mr. Rosberg and Mr. Lindell thought it was important for Mr. Forssell to have an equity ownership in our company, Mr. Rosberg and Mr. Lindell, in their individual capacities, provided loans to Mr. Forssell to assist in his participation in the Private Placement. The loans were in the aggregate amount of $537,422, which constituted approximately 83% of the $650,000 purchase price of the Preferred Stock that Mr. Forssell acquired in the Private Placement. Under the loan agreements, Mr. Forssell will pay an interest rate of 2% per annum but will not have to repay 57% of the Borrowed funds if he uses those moneys to purchase stock in our company, which condition he satisfied by participating in the Private Placement. All members of the Board were aware of these loans prior to their making but the Board did not formally vote to approve or disapprove the loans in connection with the Private Placement. As a result of the Private Placement and assuming full conversion of the Preferred Stock, Mr. Forssell will beneficially own 0.9% of the shares of our common stock.[9] . . .

The Board believes that the participation of the Insiders was an important factor for our company to raise capital. The terms of the Private Placement, including the price per share, were determined with the involvement of non-Insiders ~~representing more than 70% of the investment proceeds.~~ As noted above in connection with Proposal 5, Mr. Rosberg, Mr. Forssell, Ms. Ek, and Mr. Brunton served on behalf of our company to negotiate the structure and terms of the Private Placement. Although neither Ms. Ek nor Mr. Brunton invested in the Private Placement, Mr. Rosberg and Mr. Forssell did. The Board considered whether Mr. Rosberg and Mr.

[9] Addressing paragraph 31 of the Federal Complaint.

> Forssell's negotiation of and participation in the Private Placement was a conflict of interest. The Board was updated throughout the negotiation process at each stage described above in connection with Proposal 5 and including the Private Placement. Feedback to the Board from potential investors and placement agents suggested that it would be positive if the Insiders — as the two largest holders of our common stock and the Chief Executive Officer — participated in the capital raise as a signal of their commitment to our company. By maintaining their approximate percentage ownership of common stock, in the cases of Mr. Rosberg and Mr. Lindell, and by initiating ownership of common stock, in the case of Mr. Forssell, the Insiders acted in support of the investment of new capital to our company through the Private Placement.[10] . . .
>
> Even though they purchased at the same price per share as non-Insiders, the Insiders are subject to significant restrictions on the ability to resell their shares of common stock. The Securities Purchase Agreement requires that the Insiders not sell any shares of our common stock (including shares acquired prior the Private Placement) for a period of 90 days. The Insiders also are subject to Section 16 of the Exchange Act, which requires they publicly report transactions in our securities and potentially requires that they forfeit any profit realized on a sale of our common stock during a period of six months. In addition, the Insiders are subject to our company's Policy Against Insider Trading and Securities Fraud, which restricts their ability to sell shares of our common stock, including only during certain trading windows. Accordingly, while the non-Insiders have the ability to sell their shares on Nasdaq upon effectiveness of the registration statement that we are required to file pursuant to the Securities Purchase Agreement, the Insiders nonetheless are subject to a longer holding period and additional restrictions. . . .
>
> Although the Insiders could have purchased shares of common stock at the market price on Nasdaq, participation in the Private Placement enabled their investment to directly benefit our company's cash balance and funding requirements. ~~Also, acquisitions of common stock by Insiders through open market purchasers is generally not accompanied by the same degree of disclosure and negotiations associated with a direct investment by non-Insiders, such as in connection with the Private Placement.~~ Further, consistent with Nasdaq listing rules, the Board and the Insiders were aware that shareholders would have an opportunity to approve the issuance of common stock to the Insiders before conversion of their shares of Series C-2 Preferred Stock.

Ex. B.

44. Defendants, in the Supplemental Disclosures, also specifically admitted that the disclosures were made in response to the Federal Complaint and the Chancery Complaint:

[10] Addressing paragraph 31 of the Federal Complaint.

> On August 26, 2020, a putative stockholder of Neonode filed a purported class action lawsuit (C.A. No. 2020-0701-AGB) in the Delaware Court of Chancery against our company and the Board of Directors of our company for alleged breach of fiduciary duty in connection with disclosure of information concerning Proposal 5 and Proposal 6. *On September 2, 2020, a separate putative stockholder of Neonode filed a purported class action lawsuit (Case No. 1:20-cv-01174-UNA) in the United States District Court for the District of Delaware against our Company, the Board of Directors of our company, and the Chief Executive Officer of our company for alleged violation of Sections 14(a) and 20(a) of the Securities Exchange Act of 1934, as amended, in connection with disclosure of information concerning Proposal 5 and Proposal 6, and generally containing the same substantive allegations as in the above previously-filed Delaware Court of Chancery action.*
>
> Our company and the other named defendants believe that the disclosures set forth in the Proxy Statement comply fully with all applicable law, that no supplemental disclosures are required under applicable law, and that the plaintiffs' allegations are without merit. However, *in an effort to avoid the nuisance and possible expense relating to the claims asserted in stockholder litigation, and without admitting any liability or wrongdoing, we are making certain disclosures set forth below that supplement and revise those contained in the Proxy Statement*. Nothing herein shall be deemed an admission of the legal necessity or materiality under applicable law of any of the disclosures set forth herein. To the contrary, our company and the other named defendants have denied, and continue to deny, that they have committed any violations of law and expressly maintain that, to the extent applicable, they have complied with their respective legal obligations.

Ex. B at S-2.

45. Each of the Supplemental Disclosures was material to Neonode's stockholders.

46. Because the claims in the Federal Complaint were mooted by Defendants' Supplemental Disclosures, on October 20, 2020, Plaintiff filed a Notice of Voluntary Dismissal of the Federal Complaint.

Plaintiff Attempted to Negotiate a Mootness Fee With Defendants' Counsel But Defendants' Counsel Refused to Pay a Mootness Fee

47. Following the stockholder vote on the Private Placement, and the Notice of Voluntary Dismissal, Plaintiff attempted to negotiate in good faith with counsel for Defendants regarding reasonable attorneys' fees and expenses for the substantial common benefit that the Supplemental Disclosures

provided to the Company's stockholders.

48. Counsel for Defendants refused to agree to pay any fees or expenses to Plaintiff.

Defendants' Counsel Agreed to Pay a $400,000 Mootness Fee in the Chancery Case

49. Defendants did, however, agree to pay attorneys' fees and expenses to counsel for plaintiff in the Chancery Action in the amount of $400,000 in connection with the claims that were mooted in the Chancery Action by the Supplemental Disclosures. Ex. C.

The Supplemental Disclosures Conferred a Substantial Common Benefit on Neonode's Stockholders that Warrants an Award of Attorneys' Fees and Expenses

50. The Supplemental Disclosures conferred a substantial common benefit on Neonode's stockholders as they allowed stockholders to meaningfully assess the fairness of the Private Placement and determine whether to vote in support thereof.

51. Plaintiff is entitled to an award of fees and expenses for its efforts and conferring a "substantial" or "common" benefit on the members of an ascertainable class. *See Mills v. Electric Auto-Lite*, 396 U.S. 375, 396 (1970). In *Mills*, the Supreme Court held that vindicating Section 14(a)'s statutory policy of "informed corporate suffrage" confers a substantial benefit upon stockholders sufficient to warrant awarding attorney's fees. *Id.* Since *Mills*, both federal and state jurisprudence reflect that it has become "well established that non-monetary benefits, such as promoting fair and informed corporate suffrage . . . support a fee award." *Koppel v. Wien*, 743 F.2d 129, 134-35 (2d Cir. 1984).

52. Courts across the country have recognized the importance of an informed stockholder vote under *Mills* and have approved attorney fee awards based on supplemental disclosures similar to those obtained by Plaintiff here. *See, e.g., In re Celera Corp. S'holder Litig.*, C.A. No. 6304-VCP, 2012 WL 1020471, at *32-33 (Del. Ch. Mar. 23, 2012), *aff'd in part and rev'd in part by* C.A. No. 212, 2012 (Del. Dec. 27, 2012) (contested award of $650,000 in

attorneys' fees for supplemental disclosures that included multiples used in comparable companies analysis); *In re Sepracor Inc. S'holders Litig.*, C.A. No. 487-VCS (Del. Ch. May 21, 2010) (award of $550,000 in attorneys' fees for supplemental disclosures that included omitted information regarding comparable companies analysis); *Scarantino v. Silver Bay Realty Trust Corp.*, Case No. 17-cv-01066 (D. Minn. June 8, 2017) ($350,000 fee); *Kim v. BATS Global Markets, Inc.*, Case No. 2:16-cv-02817 (D. Kan. Jan 13, 2017) ($350,000 fee); *Garcia v. Kate Spade & Co.*, Case No. 17-cv-4177 (S.D.N.Y. Aug. 28, 2017) ($320,000 fee); *Joel Rosenfeld IRA v. Cynosure, Inc.*, Case No. 17-10309 (D. Mass. Feb. 5, 2018) ($300,000 fee); *Gieske v. Whole Foods Market Inc.*, Case No. 17-cv-684 (W.D. Tex. Sept. 26, 2017) ($280,000 fee); *In re Time Warner, Inc. S'holder Litig.*, Case No. 1:17-cv-00399 (S.D.N.Y. Mar. 1, 2017) ($240,000 fee); *Pajnigar v. Arctic Cat, Inc.*, Case No. 17-cv-00443 (D. Minn. Mar. 27, 2017) ($237,500 fee); *Guerra v. Linear Tech. Corp.*, Case No. 4:16-cv-05514 (N.D. Cal. Oct. 24, 2016) ($195,000 fee).

The Supplemental Disclosures Conferred a Substantial Benefit on Defendants and Defendants are Liable for Plaintiff's Reasonable Attorneys' Fees and Expenses

53. Not only did the Supplemental Disclosures confer a substantial common benefit on Neonode's stockholders, but they substantially benefitted Defendants by curing their breaches of fiduciary duties or the aiding and abetting thereof and violations of Sections 14(a) and 20(a) of the 1934 Act for failing to disclose material information in the Proxy Statement and allowed Defendants to avoid further liability in connection therewith.

54. Accordingly, Defendants are liable for Plaintiff's reasonable fees and expenses for the substantial benefits conferred on both Neonode's stockholders and Defendants through the Supplemental Disclosures.

Defendants Claim Plaintiff is Not Entitled to Any Fee, But Agreed to Pay Plaintiff in the Chancery Action $400,000 in Connection with Supplemental Disclosures

55. Following the stockholder vote on the Private Placement and the filing of the Notice of Voluntary Dismissal, Plaintiff attempted to negotiate in good faith with counsel for Defendants regarding reasonable fees and expenses for the substantial common benefit that the Supplemental Disclosures provided to the Company's stockholders.

56. Counsel for Defendants refused to pay any fees or expenses to Plaintiff. Meanwhile, counsel for Defendants agreed to pay attorneys' fees and expenses to counsel for plaintiff in the Chancery Action in the amount of $400,000 in connection with the claims that were mooted in the Chancery Action by the Supplemental Disclosures. Ex. C.

57. Plaintiff is clearly entitled to $400,000 for the benefit created by the Supplemental Disclosures that were caused by the Demand Letter and the Federal Complaint.

58. Accordingly, Plaintiff seeks fees and expenses in the amount of $400,000.

CAUSE OF ACTION
Against Defendants for Attorneys' Fees and Expenses

59. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

60. Following discussions between the parties, and as a direct result of Plaintiff's efforts, the Demand Letter, and the Complaint, Defendants filed the Supplemental Disclosures.

61. As set forth above, the Supplemental Disclosures: (i) cured the material omissions in the Proxy Statement; (ii) conferred a substantial common benefit on Neonode's stockholders and allowed them to cast an informed vote on the Private Placement; and (iii) conferred a substantial benefit on Defendants by curing their breaches of fiduciary duties or the aiding and abetting thereof and violations of Sections 14(a) and 20(a) of the 1934 Act, and allowed Defendants to avoid further liability in connection therewith.

62. Plaintiff is entitled to be paid reasonable fees and expenses by Defendants for its services rendered and for obtaining the material Supplemental Disclosures.

63. The failure to award Plaintiff's fees and expenses will result in the unjust enrichment of Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and relief against Defendants as follows:

A. An aggregate award of attorneys' fees and expenses in the amount of $400,000; and

B. Such other and further relief as the Court may deem just and proper.

Dated: July 26, 2021

RIGRODSKY LAW, P.A.

By: */s/ Gina M. Serra*

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EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

JORDAN ROSENBLATT, Individually and On Behalf of All Others Similarly Situated,	)	
Plaintiff,	)	Case No. _____
v.	)	JURY TRIAL DEMANDED
NEONODE INC., ULF ROSBERG, PETER LINDELL, PER LÖFGREN, MATTIAS BERGMAN, LARS LINDQVIST, and URBAN FORSSELL,	)	CLASS ACTION
Defendants.	)	

COMPLAINT FOR VIOLATION OF THE SECURITIES EXCHANGE ACT OF 1934

Plaintiff, by his undersigned attorneys, for this complaint against defendants, alleges upon personal knowledge with respect to himself, and upon information and belief based upon, *inter alia*, the investigation of counsel as to all other allegations herein, as follows:

NATURE OF THE ACTION

1. This action stems from defendants' dissemination of a materially incomplete proxy statement (the "Proxy Statement") filed by Neonode Inc. ("Neonode" or the "Company") with the United States Securities and Exchange Commission ("SEC") on August 20, 2020.

2. As set forth in greater detail below, the Proxy Statement scheduled a meeting of Neonode's stockholders for September 29, 2020 to vote upon the following proposals, among others:

> To approve, for purposes of complying with Nasdaq Listing Rule 5635(d), the issuance of shares of common stock underlying Preferred Stock sold in Neonode's August 5, 2020 private placement; [and]
>
> To approve, for purposes of complying with Nasdaq Listing Rule 5635(c), the issuance of shares of common stock underlying Preferred Stock sold to directors and an officer of Neonode in Neonode's August 5, 2020 private placement[.]

3. As set forth below, the Proxy Statement omits material information, which renders the Proxy Statement false and misleading. Accordingly, plaintiff alleges herein that defendants violated Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 (the "1934 Act") in connection with the Proxy Statement.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the claims asserted herein pursuant to Section 27 of the 1934 Act because the claims asserted herein arise under Sections 14(a) and 20(a) of the 1934 Act and Rule 14a-9.

5. This Court has jurisdiction over defendants because each defendant is either a corporation that conducts business in and maintains operations within this District, or is an individual with sufficient minimum contacts with this District so as to make the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

6. Venue is proper under 28 U.S.C. § 1391(b) because a substantial portion of the transactions and wrongs complained of herein occurred in this District.

PARTIES

7. Plaintiff is, and has been continuously throughout all times relevant hereto, the owner of Neonode common stock.

8. Defendant Neonode is a Delaware corporation and maintains its principal executive offices at Storgatan 23C, 114 55 Stockholm, Sweden. Neonode's common stock is traded on the NASDAQ Capital Market under the ticker symbol "NEON."

9. Defendant Ulf Rosberg ("Rosberg") is Chairman of the Board of Directors (the "Board") of the Company.

10. Defendant Peter Lindell ("Lindell") is a director of the Company.

11. Defendant Per Löfgren is a director of the Company.

12. Defendant Mattias Bergman is a director of the Company.

13. Defendant Lars Lindqvist is a director of the Company.

14. Defendant Urban Forssell ("Forssell") is Chief Executive Officer ("CEO") of the Company.

15. The defendants identified in paragraphs 9 through 14 are collectively referred to herein as the "Individual Defendants."

CLASS ACTION ALLEGATIONS

16. Plaintiff brings this action as a class action on behalf of himself and the other public stockholders of Neonode (the "Class"). Excluded from the Class are defendants herein and any person, firm, trust, corporation, or other entity related to or affiliated with any defendant.

17. This action is properly maintainable as a class action.

18. The Class is so numerous that joinder of all members is impracticable. As of August 6, 2020, there were approximately 9,171,154 shares of common stock of Neonode outstanding, held by hundreds, if not thousands, of individuals and entities scattered throughout the country.

19. Questions of law and fact are common to the Class, including, among others, whether defendants violated the 1934 Act and whether defendants will irreparably harm plaintiff and the other members of the Class if defendants' conduct complained of herein continues.

20. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature. Plaintiff's claims are typical of the claims of the other members of the Class and plaintiff has the same interests as the other members of the Class.

Accordingly, plaintiff is an adequate representative of the Class and will fairly and adequately protect the interests of the Class.

21. The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications that would establish incompatible standards of conduct for defendants, or adjudications that would, as a practical matter, be dispositive of the interests of individual members of the Class who are not parties to the adjudications or would substantially impair or impede those non-party Class members' ability to protect their interests.

22. Defendants have acted, or refused to act, on grounds generally applicable to the Class as a whole, and are causing injury to the entire Class. Therefore, final injunctive relief on behalf of the Class is appropriate.

SUBSTANTIVE ALLEGATIONS

Background of the Company and the Private Placement

23. Neonode develops optical touch and gesture control solutions for human-machine interface with devices and remote sensing solutions for driver and cabin monitoring features in automotive and other application areas.

24. The Company's main business model is to license its technology to Original Equipment Manufacturers and Tier 1 system suppliers who embed the Company's technology into systems and products they develop, manufacture, and sell.

25. On August 5, 2020, the Company issued a press release announcing a $13.9 million private placement (the "Private Placement"):

> Neonode Inc. (NASDAQ: NEON), today announced it has entered into definitive agreements with institutional and accredited investors, including insiders of the Company, for the private placement of $13.9 million of Neonode's common stock and convertible preferred stock (the "Private Placement").

> Pursuant to the terms of the Private Placement, Neonode has agreed to sell an aggregate total of 1,611,845 shares of common stock (the "Common Shares") at a price of $6.50 per Common Share, and 3,415 shares of convertible preferred stock (the "Convertible Preferred Shares") with a conversion price of $6.50 per share and a stated value of $1,000 per Convertible Preferred Share.
>
> Ulf Rosberg and Peter Lindell, directors of Neonode (the "Directors"), and Urban Forssell, Chief Executive Officer of Neonode, have agreed to purchase an aggregate of $3.05 million of the Convertible Preferred Shares in the Private Placement.
>
> In addition, Neonode will issue 1,033 shares of Convertible Preferred Shares to the Directors to repay $1 million of outstanding indebtedness owed to the Directors under loan agreements dated June 17, 2020.
>
> The Convertible Preferred Shares are convertible into an aggregate of 684,378 shares of common stock. The Convertible Preferred Shares will automatically convert into common stock upon stockholder approval, of which Neonode has agreed to seek at the earliest possible date. Neonode also will seek stockholder approval with respect to the issuance of shares to the Directors and the Chief Executive Officer in accordance with Nasdaq listing rules.
>
> Neonode has also agreed to file, within thirty days, a registration statement with the SEC to register the resale of the Common Shares and the shares of common stock underlying the Convertible Preferred Shares.
>
> Neonode expects to close the Private Placement on or about August 7, 2020, subject to the satisfaction of customary closing conditions.
>
> Craig-Hallum Capital Group LLC is acting as exclusive placement agent in connection with the offering.

The Proxy Statement Omits Material Information

26. On August 20, 2020, defendants filed the Proxy Statement with the SEC, which scheduled a meeting of Neonode's stockholders for September 29, 2020 to vote upon the following proposals, among others:

> To approve, for purposes of complying with Nasdaq Listing Rule 5635(d), the issuance of shares of common stock underlying Preferred Stock sold in Neonode's August 5, 2020 private placement; [and]
>
> To approve, for purposes of complying with Nasdaq Listing Rule 5635(c), the issuance of shares of common stock underlying Preferred Stock sold to directors and an officer of Neonode in Neonode's August 5, 2020 private placement[.]

27. However, as set forth below, the Proxy Statement omits material information.

28. The Proxy Statement fails to disclose the financial projections and/or analyses that the Individual Defendants considered and relied upon in connection with the Private Placement.

29. The Proxy Statement fails to disclose the Company's financial and/or other advisors in connection with the Private Placement and the terms of their engagements.

30. The Proxy Statement fails to disclose a fair summary of the process and negotiations leading up to the Private Placement as well as the approval process of the Private Placement.

31. The Proxy Statement fails to disclose the roles Individual Defendants Rosberg, Lindell, and Forssell played in the process leading up to the Private Placement and its approval.

32. The Proxy Statement fails to disclose the nature of any alternatives to the Private Placement that were considered by the Company's officers and directors.

33. The omission of the above-referenced material information renders the Proxy Statement false and misleading.

34. The above-referenced omitted information, if disclosed, would significantly alter the total mix of information available to the Company's stockholders.

COUNT I

Claim for Violation of Section 14(a) of the 1934 Act and Rule 14a-9 Promulgated Thereunder Against the Individual Defendants and Neonode

35. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

36. The Individual Defendants disseminated the false and misleading Proxy Statement, which contained statements that, in violation of Section 14(a) of the 1934 Act and Rule 14a-9, in light of the circumstances under which they were made, omitted to state material facts necessary

to make the statements therein not materially false or misleading. Neonode is liable as the issuer of these statements.

37. The Proxy Statement was prepared, reviewed, and/or disseminated by the Individual Defendants. By virtue of their positions within Neonode, the Individual Defendants were aware of this information and their duty to disclose this information in the Proxy Statement.

38. The Individual Defendants were at least negligent in filing the Proxy Statement with these materially false and misleading statements.

39. The omissions and false and misleading statements in the Proxy Statement are material in that a reasonable stockholder will consider them important in deciding how to vote on the proposals contained in the Proxy Statement. In addition, a reasonable investor will view a full and accurate disclosure as significantly altering the total mix of information made available in the Proxy Statement and in other information reasonably available to stockholders.

40. The Proxy Statement is an essential link in causing plaintiff and the Company's stockholders to approve the proposals contained in the Proxy Statement.

41. By reason of the foregoing, defendants violated Section 14(a) of the 1934 Act and Rule 14a-9 promulgated thereunder.

42. Because of the false and misleading statements in the Proxy Statement, plaintiff and the Class are threatened with irreparable harm.

COUNT II

Claim for Violation of Section 20(a) of the 1934 Act Against the Individual Defendants

43. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

44. The Individual Defendants acted as controlling persons of Neonode within the meaning of Section 20(a) of the 1934 Act as alleged herein. By virtue of their positions as officers

and/or directors of Neonode and participation in and/or awareness of Neonode's operations and/or intimate knowledge of the false statements contained in the Proxy Statement, they had the power to influence and control and did influence and control, directly or indirectly, the decision making of Neonode, including the content and dissemination of the various statements that plaintiff contends are false and misleading.

45. Each of the Individual Defendants was provided with or had unlimited access to copies of the Proxy Statement alleged by plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause them to be corrected.

46. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of Neonode, and, therefore, is presumed to have had the power to control and influence the particular transactions giving rise to the violations as alleged herein, and exercised the same. They Individual Defendants were directly involved in the making of the Proxy Statement.

47. By virtue of the foregoing, the Individual Defendants violated Section 20(a) of the 1934 Act.

48. As set forth above, the Individual Defendants had the ability to exercise control over and did control a person or persons who have each violated Section 14(a) of the 1934 Act and Rule 14a-9, by their acts and omissions as alleged herein. By virtue of their positions as controlling persons, these defendants are liable pursuant to Section 20(a) of the 1934 Act. As a direct and proximate result of defendants' conduct, plaintiff and the Class are threatened with irreparable harm.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment and relief as follows:

A. Preliminarily and permanently enjoining defendants and all persons acting in concert with them from proceeding with the September 29, 2020 stockholder vote;

B. Directing the Individual Defendants to disseminate a Proxy Statement that does not contain any untrue statements of material fact and that states all material facts required in it or necessary to make the statements contained therein not misleading;

C. Declaring that defendants violated Sections 14(a) and/or 20(a) of the 1934 Act, as well as Rule 14a-9 promulgated thereunder;

D. Awarding plaintiff the costs of this action, including reasonable allowance for plaintiff's attorneys' and experts' fees; and

E. Granting such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff respectfully requests a trial by jury on all issues so triable.

Dated: September 2, 2020

RIGRODSKY & LONG, P.A.

By: */s/ Gina M. Serra*

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EXHIBIT B

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934

Filed by the Registrant ☒

Filed by a Party other than the Registrant ☐

Check the appropriate box:

☐ Preliminary Proxy Statement
☐ **Confidential, For Use of the Commission Only (as permitted by Rule 14a-6(e)(2)**
☐ Definitive Proxy Statement
☒ Definitive Additional Materials
☐ Soliciting Material Pursuant to §240.14a-12

NEONODE INC.
(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

☒ No fee required.

☐ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

☐ Fee paid previously with preliminary materials.

☐ Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

NEONODE INC.

SUPPLEMENT TO
PROXY STATEMENT FOR THE 2020 ANNUAL MEETING

Neonode Inc., a Delaware corporation ("we", "us", "our", "company," or "Neonode"), filed its definitive proxy statement (the "Proxy Statement") with the Securities and Exchange Commission (the "SEC") on August 20, 2020, relating to the 2020 Annual Meeting of Stockholders of our company.

Among the proposals for stockholder vote at the 2020 Annual Meeting are:

- Proposal 5 – Approval, for purposes of complying with Nasdaq Listing Rule 5635(d), of the Issuance of Shares of Common Stock Underlying Series C-1 Preferred Stock and Series C-2 Preferred Stock ("Proposal 5"), and

- Proposal 6 – Approval, for purposes of complying with Nasdaq Listing Rule 5635(c), of the Issuance of Shares of Common Stock Underlying Series C-2 Preferred Stock to our Directors and Chief Executive Officer ("Proposal 6").

This Supplement does not change the proposals to be acted on at the 2020 Annual Meeting or the Board's recommendations with respect to the proposals, which are described in the Proxy Statement. Except as specifically supplemented or revised by the information contained in this Supplement, all information set forth in the Proxy Statement continues to apply and should be considered when voting your shares using one of the methods described in the Proxy Statement.

Voting

If you have already submitted a proxy to vote your shares, either by returning a completed proxy card or voting instruction form or by internet or telephone voting, you do not need to re-submit your proxy unless you wish to change your vote.

If you have not yet voted your shares, please do so as soon as possible. You may vote by following the instructions for voting as described in the Proxy Statement. If you have submitted your proxy, you may change or revoke your vote before it is voted at the 2020 Annual Meeting by following the instructions as described in the Proxy Statement.

Important Notice Regarding the Availability of Proxy Materials for the Annual Meeting of Stockholders to be Held on Tuesday, September 29, 2020:
This Supplement, the Proxy Statement and notice, the proxy card, and our annual report on Form 10-K are available at *http://www.astproxyportal.com/ast/22427*

Stockholder Litigation

On August 26, 2020, a putative stockholder of Neonode filed a purported class action lawsuit (C.A. No. 2020-0701-AGB) in the Delaware Court of Chancery against our company and the Board of Directors of our company for alleged breach of fiduciary duty in connection with disclosure of information concerning Proposal 5 and Proposal 6. On September 2, 2020, a separate putative stockholder of Neonode filed a purported class action lawsuit (Case No. 1:20-cv-01174-UNA) in the United States District Court for the District of Delaware against our Company, the Board of Directors of our company, and the Chief Executive Officer of our company for alleged violation of Sections 14(a) and 20(a) of the Securities Exchange Act of 1934, as amended, in connection with disclosure of information concerning Proposal 5 and Proposal 6, and generally containing the same substantive allegations as in the above previously-filed Delaware Court of Chancery action.

Our company and the other named defendants believe that the disclosures set forth in the Proxy Statement comply fully with all applicable law, that no supplemental disclosures are required under applicable law, and that the plaintiffs' allegations are without merit. However, in an effort to avoid the nuisance and possible expense relating to the claims asserted in stockholder litigation, and without admitting any liability or wrongdoing, we are making certain disclosures set forth below that supplement and revise those contained in the Proxy Statement. Nothing herein shall be deemed an admission of the legal necessity or materiality under applicable law of any of the disclosures set forth herein. To the contrary, our company and the other named defendants have denied, and continue to deny, that they have committed any violations of law and expressly maintain that, to the extent applicable, they have complied with their respective legal obligations.

SUPPLEMENTAL DISCLOSURES

The following supplemental information should be read in conjunction with the Proxy Statement, which should be read in its entirety. All page references are to pages in the Proxy Statement, and terms used herein, unless otherwise defined, have the meanings set forth in the Proxy Statement. Except where an entirely new paragraph is being added, underlined text shows text being added to a referenced disclosure in the Proxy Statement and a line through text shows text being deleted from a referenced disclosure in the Proxy Statement. To the extent that the information set forth herein differs from or updates information contained in the Proxy Statement, the information set forth herein shall supersede or supplement the information in the Proxy Statement.

*The disclosure in Proposal 5 of the heading "**Background and Description of the Private Placement**" is hereby supplemented and revised by replacing it with the following heading and adding the following paragraph as the eighth paragraph under such heading on page 26 of the Proxy Statement:*

Description of the Private Placement

The Private Placement was approved by the three disinterested members of the Board. The other two directors, Mr. Rosberg and Mr. Lindell, were present during the Board deliberations and vote on the Private Placement but abstained from voting due to their interest in the Private Placement.

*The disclosure in Proposal 5 of the heading "**Reasons for the Private Placement**" is hereby supplemented and revised by replacing it with the following heading and adding the following paragraphs after the first paragraph under such heading on page 26 of the Proxy Statement:*

Background and Reasons for the Private Placement

On March 31, 2020, the closing price of our common stock (as reflected on Nasdaq.com) was $1.77 per share. During the next 30 days, the share price increased substantially. On April 30, 2020, the closing price of our common stock (as reflected on Nasdaq.com) was $5.22 per share, representing a nearly 300% increase in one month.

We believe the increase in our common stock share price has been due in part to our business strategy and focus on contactless touch technology. As a result of the Covid-19 pandemic, manufacturers, suppliers, and consumers have increasingly demanded products that avoid the need for surface contact. Our sensor modules and remote sensing services provide a contactless touch solution in response to that demand.

While we believe our technology has resulted in an increase in customer interest and improved our long-term growth potential, the Covid-19 pandemic negatively impacted our company in the short-term due to the global economic slowdown. On May 13, 2020, we announced our financial results for the March 31, 2020 quarter, reporting a 35% decrease in net sales and a 40% higher net loss than the same period in 2019.

Historically, we have raised funds for working capital through the sale of common stock and warrants. In 2015, using a shelf registration, we sold common stock in an underwritten offering for approximately $6 million in gross proceeds. In 2016, we sold common stock and warrants in a private placement for approximately $9 million in gross proceeds. In 2017, we sold common stock and warrants in a private placement for approximately $10 million in gross proceeds. In 2018, we sold common stock without warrants in a private placement for approximately $5 million in gross proceeds.

For a potential capital raise in 2020, our ability to raise additional funds through the sale of common stock was limited due to corporate and regulatory factors.

- The number of shares of common stock our company could issue is subject to our available authorized shares of common stock under our Certificate of Incorporation as described in the Proxy Statement (see Proposal 7 on page 32). Prior to the Private Placement, we could issue, directly or upon exercise of warrants or conversion of preferred stock, a maximum of 4.8 million shares of common stock without obtaining stockholder approval.

- In the absence of a public registered offering, a private placement of our common stock would be subject to the Nasdaq limitation described in the Proxy Statement (see "Proposal to Approve Issuance of Additional Shares of Common Stock" of this Proposal 5 on page 27) regarding the issuance of 20% or more of our outstanding shares at a discount. With 9.2 million shares of common stock outstanding, our company could sell 1.8 million shares without obtaining stockholder approval.

Further, our shelf registration of $20 million shares of common stock expired on March 15, 2020. The amount we could register under a replacement shelf registration at that time was substantially less due to the low share price of our common stock and SEC rule limitations.

Based upon our funding requirements and history, the Board and management of our company targeted a raise of a minimum of $10 million in new capital. Depending on investor demand and subject to the corporate and regulatory limits described above, the Board and management hoped to raise more than $10 million if possible. Although including a warrant may have resulted in a higher price per share of common stock sold, warrants would result in a lower effective price, an overhang on our common stock for multiple years, and a reduction in the number of available authorized shares of common stock without necessarily generating proceeds to our company. As such, the Board and management focused on a capital raise solely of common stock but, if appropriate due to the corporate and regulatory limits described above, the Board and management would consider including a convertible security subject to stockholder approval.

Ulf Rosberg, Urban Forssell, Maria Ek, and David Brunton served on behalf of our company to negotiate the structure and terms of a private placement with potential investment banks and investors, including the Private Placement that was ultimately completed. Mr. Rosberg is the Chairman of the Board and has a background in investment banking. Mr. Forssell as Chief Executive Officer and Ms. Ek as Chief Financial Officer are the sole executive officers of our company. Mr. Brunton is a consultant to the company, is responsible for managing U.S. investor relations for our company, and formerly served as chief financial officer of our company and oversaw prior capital raise transactions by our company. Although neither Ms. Ek nor Mr. Brunton invested in the Private Placement, Mr. Rosberg and Mr. Forssell did. The Board considered whether Mr. Rosberg and Mr. Forssell's negotiation of and participation in the Private Placement was a conflict of interest. The Board was updated throughout the negotiation process at each stage described below and including the Private Placement. Rimon, P.C. served as our company's outside legal counsel throughout the negotiation process, including in connection with the Private Placement that was ultimately completed.

In March 2020, we engaged a European investment bank to assist our company in raising capital. Our company's headquarters, management team, and operations are located in Sweden. We also announced in March 2020 that the Board was evaluating a dual listing on the Nasdaq Stockholm in Sweden in addition to our existing listing on the Nasdaq in the U.S. Engaging a European investment bank furthered the Board's goals of raising capital and listing on Nasdaq Stockholm. During April and May 2020, the Board and management participated in negotiations involving the European investment bank on structuring a transaction to comply with both Swedish and U.S. standards. The negotiations also related to pricing, particularly in light of the increase in the share price of our common stock between March 2020 and May 2020. By June 2020, we terminated our engagement with the investment bank. We determined that it would be beneficial if our share price stabilized at a higher level to generate demand from potential investors. We also determined that our company could raise capital at a future period in 2020 and at a lower discount to the price at which our common stock publicly traded, potentially in the U.S. markets.

Although the Board believed we could – and ultimately did – obtain better pricing in a capital raise later in the year, our company had short-term funding requirements. Our cash balance of approximately $1.2 million as of March 31, 2020 had continued to decrease in April and May 2020. As a result, in June 2020, the Board approved entering into short-term loan facilities of an aggregate of approximately $3.4 million (the "Loan Agreements") with each of Mr. Rosberg and Mr. Lindell as described in the Proxy Statement (see Certain Relationships and Related Transactions, and Director Independence on page 34). The Loan Agreements were approved by the three disinterested members of the Board. The other two directors, Mr. Rosberg and Mr. Lindell, did not participate in the voting due to their interest in the Loan Agreements. The Loan Agreements provided for a credit fee of 0.75% per annum and incurred interest at a fixed rate of 3.25% per annum. Upon entering into the Loan Agreements, we made an initial drawdown of an aggregate of $1 million to address our short-term funding requirements. The Loan Agreements provided that if our company carried out a capital raise before December 31, 2020, any outstanding amount under the Loan Agreements would become due and payable.

In July 2020, our company engaged a U.S. investment bank, Craig-Hallum Capital Group, LLC ("Craig-Hallum"), to assist in a potential private placement. We selected Craig-Hallum as placement agent based in part on its prior success raising capital on behalf of our company. The role of a placement agent includes formulating a strategy to solicit, and assist in negotiations with, potential investors. The terms of the engagement provided that we could not negotiate with another investment bank for an offering of our securities for a certain period while Craig-Hallum was serving as placement agent. The terms of the engagement also provided that Craig-Hallum would receive a fee as placement agent based upon a tiered rate consisting of a percentage fee of gross proceeds raised from investors identified by Craig-Hallum, a lower percentage fee of gross proceeds raised from investors (including Mr. Forssell) identified by our company, but no fee on gross proceeds attributable to the financing commitment previously made by Mr. Rosberg and Mr. Lindell through the Loan Agreements. Craig-Hallum would not have been entitled to a fee if a private placement did not occur. This tiered rate percentage ultimately resulted in our company paying a placement agent fee of $659,070 to Craig-Hallum.

To address the corporate and regulatory limits described above, we agreed to structure an offering to include common stock and convertible preferred stock subject to stockholder approval up to a maximum of 4.8 million shares of common stock, direct and as converted. This offering structure resulted in the Private Placement described in the Proxy Statement and this Proposal 5. The preferred stock offered a dividend of 5% per annum, but would automatically convert to common stock upon shareholder approval (as contemplated by this Proposal 5 but subject as applicable to the additional shareholder approval in Proposal 6) at a meeting of stockholders within 75 days. Potential investors were given the opportunity to choose between common stock and preferred stock. While preferred stock offered a dividend until conversion, common stock offered more liquidity.

Throughout June and July 2020, our share price continued to increase (as reflected on Nasdaq.com). On June 1, 2020, the closing price of our common stock was $4.53 per share. On July 1, 2020, the closing price of our common stock was $8.71 per share. On July 31, 2020, the closing price of our common stock was $9.24 per share. The July 31 closing price of $9.24 represented an increase of more than 500% in the four months since the March 31 closing price of $1.77.

In addition, our company was scheduled on August 14, 2020 to release earnings for the quarter ended June 30, 2020. Because our company was in possession of the expected financial results for the completed quarter, we shared the information confidentially with potential purchasers in the Private Placement. Management's expectations of revenues for the second quarter of 2020 ranged between $650,000 and $850,000, a decrease of approximately 62% to 50% compared to the second quarter of 2019. Management's expectations of net loss per share for the second quarter of 2020 ranged between $(0.17) to $(0.21), a higher net loss per share of approximately 21% to 50% compared to the second quarter of 2019.

In view of the increase in our share price over a short period and our management's expected financial results, investor demand for the private placement was lower than the Board anticipated. To raise the intended minimum of $10 million to support our continuing operations, the Board agreed on August 5, 2020 to enter into the Securities Purchase Agreement to sell stock at a price of $6.50 per share and the terms of the Private Placement set forth on page 26 of the Proxy Statement.

The disclosure in Proposal 5 is hereby supplemented and revised by adding the following underlined disclosure to the first paragraph on page 27 of the Proxy Statement:

We believe that the Private Placement, which yielded gross proceeds of approximately $13.9 million as well as the repayment of $1.03 million of outstanding indebtedness owed to Mr. Rosberg and Mr. Lindell, was advisable in light of our cash balance and funding requirements. We also believe that the terms were reasonable in light of market conditions and the size and type of the financing. Among the factors considered were (i) the company's low cash balance, (ii) the company's cash burn rate, (iii) the degradation in the company's earnings, (iv) the immediate need to strengthen the company's cash position, including to take advantage of potential long-term growth opportunities, (v) the need for the company to focus its talent and resources on executing its business plan, (vi) the rapid increase in the trading price of the company's common stock, (vii) the absence of a warrant component to the Private Placement, and (viii) the high degree of uncertainty in the market caused by the Covid-19 pandemic. In addition, the Board considered alternatives to the Private Placement (including, primarily, the potential to engage another investment bank to assist with a capital raise at some later date after the exclusivity period with Craig-Hallum expired), none of which, in the opinion of the Board, would have resulted in aggregate terms equivalent to, or more favorable than, the terms obtained in the Private Placement.

*The disclosure in Proposal 6 of the heading "**Background and Description of the Private Placement**" is hereby supplemented and revised by replacing it with the following heading and adding the following paragraph as the fifth paragraph under such heading on page 29 of the Proxy Statement:*

Description of the Private Placement

The Private Placement – including the participation of the Insiders in the Private Placement – was approved by the three disinterested members of the Board. The other two directors, Mr. Rosberg and Mr. Lindell, were present during the Board deliberations and vote on the Private Placement but abstained from voting due to their interest in the Private Placement.

*The disclosure in Proposal 6 of the heading "**Reasons for the Issuance**" is hereby supplemented and revised by replacing it with the following heading and adding after the second paragraph under such heading the following paragraph on page 29 of the Proxy Statement:*

Background and Reasons for the Issuance

The Loan Agreements were approved by the three disinterested members of the Board. The other two directors, Mr. Rosberg and Mr. Lindell, did not participate in the voting due to their interest in the Loan Agreements.

The disclosure in Proposal 6 is hereby supplemented and revised by adding the following underlined disclosure to the ninth paragraph on page 29 of the Proxy Statement:

We believe that the Private Placement, which yielded gross proceeds of approximately $13.9 million as well as the repayment of $1.03 million of outstanding indebtedness owed to the Directors, was advisable in light of our company's cash balance and funding requirements. We also believe that the terms were reasonable in light of market conditions and the size and type of the financing. Among the factors considered were (i) the company's low cash balance, (ii) the company's cash burn rate, (iii) the degradation in the company's earnings, (iv) the immediate need to strengthen the company's cash position, including to take advantage of potential long-term growth opportunities, (v) the need for the company to focus its talent and resources on executing its business plan (vi) the rapid increase in the trading price of the company's common stock, (vii) the absence of a warrant component to the Private Placement, and (viii) the high degree of uncertainty in the market caused by the Covid-19 pandemic. In addition, the Board considered alternatives to the Private Placement (including, for example, the potential to engage another investment bank to assist with a capital raise at some later date after the exclusivity period with Craig-Hallum expired), none of which, in the opinion of the Board, would have resulted in aggregate terms equivalent to, or more favorable than, the terms obtained in the Private Placement.

The disclosure in Proposal 6 is hereby supplemented by adding the following paragraphs after the second paragraph on page 30 of the Proxy Statement:

On June 16, 2020, the day before Mr. Rosberg and Mr. Lindell entered into the Loan Agreements, the closing price of our common stock (as reflected on Nasdaq.com) was $5.23 per share. Further, the terms of the engagement with Craig-Hallum as placement agent provided that it would not receive any fee attributable to the aggregate of $3.4 million commitment by Mr. Rosberg and Mr. Lindell under the Loan Agreements.

Under the Loan Agreements, we were obligated to pay a credit fee of 0.75% and interest at a rate of 3.25%, which in the absence of the Private Placement may have continued until December 31, 2020 or later. By entering into the Private Placement in August 2020 and repaying the Loan Agreements, our company was not otherwise obligated to pay interest for the approximately 150 days remaining until December 2020. While the Preferred Stock issued in the Private Placement obligates our company to pay a dividend at a rate of 5.0%, the obligation will end if and when shareholder approval is obtained pursuant to Proposal 5 and this additional shareholder approval in Proposal 6. If the proposals are approved, the dividend payment obligation will exist only for approximately 50 days, during which time no interest will have accrued under the repaid Loan Agreements.

The disclosure in Proposal 6 is hereby supplemented and revised by adding the following underlined disclosure to the fourth paragraph on page 30 of the Proxy Statement:

Prior to the Private Placement, Mr. Forssell did not beneficially own any shares of our common stock. Our company's equity compensation plan expired by its terms less than four months after Mr. Forssell became Chief Executive Officer. The Board believes it is important for the Chief Executive Officer to have an equity ownership position in our company. Participation in the Private Placement enabled Mr. Forssell to gain such equity ownership by means of a single acquisition and with the approval of the Board. Because Mr. Rosberg and Mr. Lindell thought it was important for Mr. Forssell to have an equity ownership in our company, Mr. Rosberg and Mr. Lindell, in their individual capacities, provided loans to Mr. Forssell to assist in his participation in the Private Placement. The loans were in the aggregate amount of $537,422, which constituted approximately 83% of the $650,000 purchase price of the Preferred Stock that Mr. Forssell acquired in the Private Placement. Under the loan agreements, Mr. Forssell will pay an interest rate of 2% per annum but will not have to repay 57% of the borrowed funds if he uses those moneys to purchase stock in our company, which condition he satisfied by participating in the Private Placement. All members of the Board were aware of these loans prior to their making but the Board did not formally vote to approve or disapprove the loans in connection with the Private Placement. As a result of the Private Placement and assuming full conversion of the Preferred Stock, Mr. Forssell will beneficially own 0.9% of the shares of our common stock.

The disclosure in Proposal 6 is hereby supplemented and revised by adding the following underlined disclosure and deleting the following text that is struck through to the fifth paragraph on page 30 of the Proxy Statement:

The Board believes that the participation of the Insiders was an important factor for our company to raise capital. The terms of the Private Placement, including the price per share, were determined with the involvement of non-Insiders ~~representing more than 70% of the investment proceeds~~. As noted above in connection with Proposal 5, Mr. Rosberg, Mr. Forssell, Ms. Ek, and Mr. Brunton served on behalf of our company to negotiate the structure and terms of the Private Placement. Although neither Ms. Ek nor Mr. Brunton invested in the Private Placement, Mr. Rosberg and Mr. Forssell did. The Board considered whether Mr. Rosberg and Mr. Forssell's negotiation of and participation in the Private Placement was a conflict of interest. The Board was updated throughout the negotiation process at each stage described above in connection with Proposal 5 and including the Private Placement. Feedback to the Board from potential investors and placement agents suggested that it would be positive if the Insiders — as the two largest holders of our common stock and the Chief Executive Officer — participated in the capital raise as a signal of their commitment to our company. By maintaining their approximate percentage ownership of common stock, in the cases of Mr. Rosberg and Mr. Lindell, and by initiating ownership of common stock, in the case of Mr. Forssell, the Insiders acted in support of the investment of new capital to our company through the Private Placement.

The disclosure in Proposal 6 is hereby supplemented by adding the following paragraphs after the fifth paragraph on page 30 of the Proxy Statement:

Even though they purchased at the same price per share as non-Insiders, the Insiders are subject to significant restrictions on the ability to resell their shares of common stock. The Securities Purchase Agreement requires that the Insiders not sell any shares of our common stock (including shares acquired prior the Private Placement) for a period of 90 days. The Insiders also are subject to Section 16 of the Exchange Act, which requires they publicly report transactions in our securities and potentially requires that they forfeit any profit realized on a sale of our common stock during a period of six months. In addition, the Insiders are subject to our company's Policy Against Insider Trading and Securities Fraud, which restricts their ability to sell shares of our common stock, including only during certain trading windows. Accordingly, while the non-Insiders have the ability to sell their shares on Nasdaq upon effectiveness of the registration statement that we are required to file pursuant to the Securities Purchase Agreement, the Insiders nonetheless are subject to a longer holding period and additional restrictions.

The disclosure in Proposal 6 is hereby supplemented and revised by deleting the following text that is struck through to the sixth paragraph on page 30 of the Proxy Statement:

Although the Insiders could have purchased shares of common stock at the market price on Nasdaq, participation in the Private Placement enabled their investment to directly benefit our company's cash balance and funding requirements. ~~Also, acquisitions of common stock by Insiders through open market purchasers is generally not accompanied by the same degree of disclosure and negotiations associated with a direct investment by non-Insiders, such as in connection with the Private Placement.~~ Further, consistent with Nasdaq listing rules, the Board and the Insiders were aware that shareholders would have an opportunity to approve the issuance of common stock to the Insiders before conversion of their shares of Series C-2 Preferred Stock.

Forward-Looking Statements

This Supplement to the Proxy Statement contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. These include, but are not limited to, statements relating to expectations, and future performance or future events, such as the purported class action lawsuits filed on August 26, 2020 and September 2, 2020 against our company and the other named defendants. These statements are based on current assumptions, expectations and information available to our company's management and involve a number of known and unknown risks, uncertainties and other factors that may cause our company's actual results, levels of activity, performance or achievements to be materially different from any expressed or implied by these forward-looking statements.

These risks, uncertainties, and factors are discussed under "Risk Factors" and elsewhere in our public filings with the SEC from time to time, including our annual report on Form 10-K, quarterly reports on Form 10-Q, and current reports on Form 8-K. You are advised to carefully consider these various risks, uncertainties and other factors. Although our company's management believes that the forward-looking statements contained in the Proxy Statement, including this Supplement, are reasonable, it can give no assurance that its expectations will be fulfilled. Forward-looking statements are made as of today's date, and we undertake no duty to update or revise them.

EXHIBIT C

EFiled: Nov 20 2020 04:45PM EST
Transaction ID 66132141
Case No. 2020-0701-AGB

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ROBERT GARFIELD, individually on behalf of himself and all other similarly situated stockholders of NEONODE, INC., Plaintiff, v. MATTIAS BERGMAN, PETER LINDELL, LARS LINDQVIST, PER LÖFGREN, ULF ROSBERG, and NEONODE INC., Defendants.	C.A. No. 2020-0701-AGB

STIPULATION AND [PROPOSED] ORDER CLOSING THE CASE

WHEREAS, on August 25, 2020, Plaintiff Robert Garfield ("Plaintiff") commenced an individual and proposed class action styled, *Garfield v. Bergman, et al.*, C.A. No. 2020-0701-AGB (the "Action"), on behalf of himself and all other similarly situated stockholders of Neonode, Inc. ("Neonode") against defendants Mattias Bergman, Peter Lindell, Lars Lindqvist, Per Löfgren, Ulf Rosberg, and Neonode (collectively, "Defendants");

WHEREAS, also on August 25, 2020, Plaintiff moved to expedite proceedings (the "Expedition Motion") and to preliminarily enjoin (the "Injunction Motion") the stockholder votes on Proposals 5 and 6 at Neonode's Annual Meeting of Stockholders scheduled for September 29, 2020 (the "Annual Meeting"). Neonode did not oppose the Expedition Motion;

WHEREAS, on August 26, 2020, Plaintiff propounded his First Request for the Production of Documents;

WHEREAS, on September 2, 2020, Plaintiff served a subpoena *duces tecum* and *ad testificandum* on Craig-Hallum Capital Group LLC;

WHEREAS, on September 10, 2020, Plaintiff deposed Urban Forssell, Chief Executive Officer of Neonode;

WHEREAS, on September 13, 2020, following completion of certain expedited discovery, Plaintiff amended his Injunction Motion to additionally seek to enjoin the stockholder vote on Proposal 1 at the Annual Meeting, and filed his opening brief in support of that motion;

WHEREAS, on September 16, 2020, the parties orally advised the Court and confirmed by letter the following day that Neonode had agreed to issue a supplement to the proxy statement issued in connection with the Annual Meeting, which the parties agreed would moot Plaintiff's claims (the "Supplement");

WHEREAS, on September 18, 2020, Neonode filed the Supplement with the U.S. Securities and Exchange Commission (the "SEC");

WHEREAS, counsel for the parties conferred regarding the mooting of the claims in the Action and Plaintiff's intention to make an application to the Court for attorneys' fees;

WHEREAS, the parties have reached an agreement to resolve an intended application for attorneys' fees without Plaintiff making an application to the Court, and agreed to resolve the issue with a payment to Plaintiff's counsel on behalf of Neonode; and

WHEREAS, the Court has not and will not pass judgment on the amount of the fee;

IT IS HEREBY STIPULATED AND AGREED, pursuant to Court of Chancery Rules 23(e) and 41(a), by the parties hereto, through their undersigned counsel, and subject to the approval of the Court, that:

1. Neonode shall cause this Stipulation and Order to be filed with the SEC on Form 8-K no later than five (5) business days after the entry by the Court of this Stipulation and Order.

2. Upon compliance with paragraph 1 herein, the Defendants shall file an affidavit (the "Affidavit") with the Court no later than five (5) business days after the Stipulation and Order has been filed by Neonode in the Form 8-K stating that paragraph 1 has been complied with.

3. Upon the filing of the Affidavit:

a. The Action is dismissed, and all claims asserted or that could have been asserted therein are dismissed with prejudice only as to Plaintiff, and

without prejudice as to any actual or potential claims of any other members of the putative class;

b. The Court will no longer retain jurisdiction over the Action; and

c. The Action will be closed for all purposes.

4. Neonode or its designee shall pay Plaintiff's counsel's fees and expenses in the amount of $400,000.00 within ten (10) days of the date of the dismissal of this Action, pursuant to Paragraph 3 hereof, to an account designated by Plaintiff's counsel.

ANDREW & SPRINGER LLC

/s/ David M. Sborz

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Counsel for Defendants Neonode Inc., Mattias Bergman, Peter Lindell, Lars Lindqvist, Per Löfgren, and Ulf Rosberg

Dated: November 20, 2020

SO ORDERED this ___ day of _____, 2020.

_____
Chancellor Andre G. Bouchard