

# 2007 BCSECCOM 527

August 28, 2007

## **Headnote**

Mutual Reliance Review System for Exemptive Relief Applications - Issuer deemed to cease to be a reporting issuer – The issuer's securities are traded only on a market or exchange outside of Canada - Canadian residents own less than 10% of the issuer's securities and represent less than 10% of the issuer's total number of security holders; the issuer does not intend to do a public offering of its securities to Canadian residents; the issuer will not be a reporting issuer in a Canadian jurisdiction; the issuer is subject to the reporting requirements of US securities laws and has undertaken that it will provide all disclosure materials required by US securities laws to be delivered to the issuer's shareholders resident in the US to its shareholders resident in Canada in the manner and at the time required by US securities law and US market requirements

## **Applicable British Columbia Provisions**

*Securities Act*, R.S.B.C. 1996, c. 418, s. 88

In the Matter of  
the Securities Legislation of  
British Columbia and Alberta

and

In the Matter of  
the Mutual Reliance Review System for Exemptive Relief Applications

and

In the Matter of  
Applied Digital Solutions, Inc.

MRRS Decision Document

## **Background**

- ¶ 1 The local securities regulatory authority or regulator (the Decision Maker) in each of the Provinces of British Columbia and Alberta (the Jurisdictions) has received an application from Applied Digital Solutions, Inc. (Applied Digital) for a decision under the securities legislation of the Jurisdictions (the Legislation) that Applied Digital be deemed to have ceased to be a reporting issuer.

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Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the British Columbia Securities Commission is the principal regulator for this application; and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

### **Interpretation**

- ¶ 2 Unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101.

### **Representations**

- ¶ 3 This decision is based on the following facts represented by Applied Digital:
1. Applied Digital was incorporated under the laws of Missouri in 1993 and re-incorporated under the laws of Delaware effective April 20, 2007; Applied Digital's head office is located at 1690 South Congress Avenue, Suite 200, Delray Beach, Florida, 33445;
  2. Applied Digital acquired by way of plan of arrangement (the Arrangement) the outstanding shares of VeriChip Inc. on March 31, 2005 in exchange for common shares of Applied Digital representing approximately 5.4% of its then outstanding common shares; prior to its acquisition by Applied Digital, VeriChip Inc. (formerly, EXI Wireless Systems Inc.) was a reporting issuer in British Columbia and Alberta, and its common shares were listed for trading on the TSX Venture Exchange; as a result of, and subsequent to the Arrangement, the common shares of VeriChip Inc. (formerly, EXI Wireless Systems Inc.) were delisted from the TSX Venture Exchange effective at the close of business on April 4, 2005;
  3. Applied Digital's authorized capital consists of 125,000,000 common shares of which 67,652,259 issued and 67,551,963 were outstanding (including treasury stock) as of April 13, 2007;
  4. Applied Digital is a reporting issuer in British Columbia and Alberta, a status acquired on March 31, 2005 by virtue of the Arrangement, and Applied Digital is not a reporting issuer in any other province or territory in Canada;
  5. Applied Digital is not in default with respect to the filing of financial statements required by the British Columbia Act or the Securities Rules, B.C. Reg. 194/97 and is not in default of paying fees and charges prescribed by the Securities Regulation, B.C. Reg. 196/97; Applied Digital is also not in default of any reporting requirements under the Alberta Act;

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6. Applied Digital is also subject to the reporting requirements of the United States Securities Exchange Act of 1934, as amended (the 1934 Act) and is not in default of any of the requirements of the 1934 Act;
7. Applied Digital's management, business and assets are located primarily outside of Canada;
8. Applied Digital does not have any securities listed for trading or quoted on any stock exchange or organized market in Canada, nor does it intend to list its securities on any stock exchange or market in Canada; its shares are listed on the Nasdaq SmallCap Market;
9. to Applied Digital's knowledge, there is no market in Canada for its shares;
10. Applied Digital does not intend to seek public financing by way of an offering of its securities in Canada;
11. all Canadian holders of Applied Digital's common shares have been and will continue to be provided with all continuous disclosure materials required by US securities law to be distributed to the holders of Applied Digital's common shares resident in the United States, including audited annual financial statements, in the manner and at the time required by US securities law and US market requirements; this information is also available to shareholders through the US Securities and Exchange Commission website;
12. approximately 3.4% of Applied Digital's issued shares are held by residents of Canada and approximately 3.6% of Applied Digital's total shareholders hold these shares; and,
13. other than common shares in the capital of Applied Digital, no other securities (including debt securities) of Applied Digital are held by residents of Canada.

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### **Decision**

- ¶ 4 Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met.

The decision of the Decision Makers under the Legislation is that Applied Digital is deemed to have ceased to be a reporting under the Legislation.

Martin Eady, CA  
Director, Corporate Finance  
British Columbia Securities Commission