

**Headnote**

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* – National Instrument 51-102, s. 13.1 *Continuous Disclosure Obligations* – BAR – An issuer requires relief from the requirement to file a business acquisition report – The acquisition is insignificant applying the asset and investment tests; applying the profit or loss test produces an anomalous results because the significance of the acquisition under this test is disproportionate to its significance on an objective basis in comparison to the results of the other significance tests and all other business, commercial, financial and practical factors; the filer has provided additional measures that demonstrate the insignificance of the property to the filer and that are generally consistent with the results when applying the asset and investment tests

**Applicable Legislative Provisions**

National Instrument 51-102, s. 13.1

March 1, 2017

In the Matter of  
the Securities Legislation of  
British Columbia and Ontario  
(the Jurisdictions)

and

In the Matter of  
the Process for Exemptive Relief Applications in Multiple Jurisdictions

and

In the Matter of  
Sierra Wireless, Inc.  
(the Filer)

Decision

**Background**

- ¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) granting relief from the requirement in Part 8 of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) to file a business acquisition report (BAR) in connection with the Filer's acquisition of a business specializing in embedded wireless technologies (Blue Creation) (the Acquisition) on November 2, 2016 (the Exemption

Sought). Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the British Columbia Securities Commission is the principal regulator for this application,
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta, Saskatchewan, Manitoba, Quebec, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador, and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

### **Interpretation**

- ¶ 2 Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and NI 51-102 have the same meaning if used in this decision, unless otherwise defined in this decision.

### **Representations**

- ¶ 3 This decision is based on the following facts represented by the Filer:

#### *The Filer*

1. the Filer is a corporation incorporated under the *Canada Business Corporations Act* and its head office is located in Richmond, British Columbia;
2. the Filer is a reporting issuer under the securities legislation of each of the provinces of Canada;
3. the common shares of the Filer are listed and posted for trading on the Toronto Stock Exchange under the trading symbol “SW” and on NASDAQ under the trading symbol “SWIR”;
4. the Filer is not in default of securities legislation in any jurisdiction other than its obligation to file a BAR in connection with the Acquisition;
5. the Filer is in the business of building wireless solutions including cellular embedded wireless modules and gateways which are integrated with the Filer’s secure cloud and connectivity services;
6. the Filer’s OEM Solutions segment includes cellular embedded modules, software and tools for original equipment manufacturers (OEMs) to integrate wireless cellular connectivity into products and solutions across a broad range of industries, including automotive, transportation, energy, enterprise, networking, sales and payment, mobile computing, security, industrial monitoring, field services, residential, healthcare and others;

### *The Acquisition*

7. on November 2, 2016, the Filer acquired the issued and outstanding share capital of Blue Creation for total cash consideration of approximately US\$6.4 million or US\$2.9 million, net of US\$3.5 million of cash acquired, plus a maximum contingent consideration of US\$0.5 million under a performance-based earn-out formula (the Purchase Price);
8. Blue Creation is an early stage company that specializes in Bluetooth, Bluetooth Low Energy, Wi-Fi and other embedded wireless technologies; the acquisition of Blue Creation provides the Filer with expanded short-range wireless module capabilities in Bluetooth and Wi-Fi and will strengthen the Filer's strategic position with OEMs;

### *Significance Tests for the BAR*

9. under Part 8 of NI 51-102, the Filer is required to file a BAR for any completed acquisition that is determined to be significant based on the acquisition satisfying any of the three significance tests set out in section 8.3(2) of NI 51-102;
10. the Acquisition is not a significant acquisition under the asset test in section 8.3(2)(a) of NI 51-102 as the value of Blue Creation represented only approximately 0.6% of the consolidated assets of the Filer as of December 31, 2015;
11. the Acquisition is not a significant acquisition under the investment test in section 8.3(2)(b) of NI 51-102 as the Filer's acquisition costs represented only approximately 1.3% of the consolidated assets of the Filer as of December 31, 2015;
12. the Acquisition would, however, be a significant acquisition under the profit or loss test in section 8.3(2)(c) of NI 51-102; in particular, the Filer's proportionate share of the consolidated specified profit or loss of Blue Creation exceeds 20% of the consolidated specified profit or loss of the Filer calculated using audited annual financial statements of the Filer for the year ended December 31, 2015 and unaudited annual financial statements of Blue Creation for the year ended February 28, 2016;
13. the application of the profit or loss test produces an anomalous result for the Filer because it exaggerates the significance of the Acquisition out of proportion to its significance on an objective basis in comparison to the results of the asset test and investment test;

### *De Minimis Acquisition*

14. the Filer does not believe (nor did it at the time that it made the acquisition) that the acquisition of Blue Creation is significant to it from a commercial, business, practical or financial perspective; and
15. the Filer has provided the principal regulator with additional operational measures that demonstrate the non-significance of the acquisition of Blue Creation to the Filer; these additional operational measures compared other operational information such as revenue,

operating income, number of employees and number of embedded wireless modules shipped to that of the Filer, and the results of those measures are generally consistent with the results of the asset test and the investment test.

**Decision**

- ¶ 4 Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted.

Peter J. Brady  
Executive Director  
British Columbia Securities Commission