

IN RE PERVASIVE SOFTWARE INC,  
SHAREHOLDER LITIGATION

This Document Relates to:

ALL ACTIONS

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IN THE DISTRICT COURT OF  
TRAVIS COUNTY, TEXAS  
201ST JUDICIAL DISTRICT

**NOTICE OF PENDENCY AND PROPOSED SETTLEMENT  
OF CLASS ACTION AND SETTLEMENT HEARING**

**TO: ALL RECORD AND BENEFICIAL HOLDERS OF THE COMMON STOCK OF PERVASIVE SOFTWARE INC. (“PERVASIVE” OR THE “COMPANY”) AT ANY TIME DURING THE PERIOD FROM AND INCLUDING AUGUST 6, 2012 THROUGH AND INCLUDING APRIL 11, 2013 (THE “SETTLEMENT CLASS”). PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOU MAY BE AFFECTED BY THE PROPOSED SETTLEMENT OF THIS CLASS ACTION LITIGATION.**

This Notice of Pendency and Proposed Settlement of Class Action and Settlement Hearing (“Notice”) was authorized and approved by the 201st District Court of Travis County, Texas (the “Court”). This Notice, however, is not an expression of opinion by the Court as to the merits of any claims or defenses asserted by any party in this class action litigation. This Notice is sent for the sole purpose of informing you of the proposed Settlement,<sup>1</sup> which is contingent on final approval by the Court. If approved, the Settlement will end litigation of the Actions. This is not a solicitation from a lawyer.

On August 30, 2013, the Court in this action preliminarily approved the proposed Settlement between the Parties.

The Settlement provides, in part, for certain supplemental disclosures adopted by Pervasive, via a Form 8-K filed on April 4, 2013, with the U.S. Securities and Exchange Commission (“SEC”), mutual release of claims, and the payment and reimbursement of Plaintiffs’ attorneys’ fees and expenses and approval of the Service Awards, as defined below.

Plaintiffs and Defendants vigorously disagree on both whether Plaintiffs could have prevailed at trial and the recovery, if any, that could have been achieved for the Settlement Class if Plaintiffs had prevailed at trial. Plaintiffs believe the claims alleged in the Actions have merit. Defendants believe their conduct was in the best interests of Pervasive and its stockholders, deny all of Plaintiffs’ allegations of wrongdoing, and deny they have any liability whatsoever. Continued litigation of the Actions could have resulted in either dismissal or loss at trial. In

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<sup>1</sup> Except as expressly provided herein, all capitalized terms shall have the same meanings and/or definitions as set forth in the Stipulation of Settlement dated August 29, 2013 (the “Stipulation”) and filed with the Court on August 30, 2013.

reaching this Settlement, however, Plaintiffs and Defendants have avoided the costs, time, expense, distraction, and risks associated with continued litigation.

Your rights and options are explained in this Notice. A summary of your rights is set forth below. Please note that the date of the Settlement Hearing is subject to change without further notice.

The Court in charge of this case must decide whether to approve the Settlement.

Subject to the Order of the Court, pending final determination of whether the Settlement should be approved, Plaintiffs and all members of the Settlement Class, or any of them, are barred and enjoined from commencing, prosecuting, instigating, or in any way participating in the commencement or prosecution of any action asserting any Released Claim against any Released Person.

### **YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:**

<b>OBJECT</b>	You may write to the Court if you do not like this Settlement.
<b>EXCLUDE YOURSELF BY OCTOBER 29, 2013</b>	This is the only option that allows you to ever be a part of any other lawsuit against Pervasive and the other Released Parties about the Released Claims.
<b>GO TO THE SETTLEMENT HEARING</b>	You may ask to speak to the Court about your concerns relating to the Settlement at the Settlement Hearing.
<b>DO NOTHING</b>	You may do nothing. If you do nothing, you will give up any rights that you had to sue Defendants and the other Released Persons relating to the legal claims in the case. You will remain a member of the Settlement Class and will be bound by the Judgment of the Court.
<b>DEADLINES</b>	The Settlement Hearing will take place on November 13, 2013 at 2:00 p.m.
<b>MORE INFORMATION</b>	More information concerning the Settlement can be obtained by writing to Robbins Arroyo LLP at 600 B Street, Suite 1900, San Diego, California 92101.

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## BASIC INFORMATION

### 1. Why did I get this Notice package?

You or someone in your family may have held Pervasive common stock during the period from and including August 6, 2012 through and including April 11, 2013, the date of close of the Acquisition. The Court directed that you be sent this Notice because, if you are a member of the Settlement Class, you have a right to know about the proposed Settlement of the Actions, and about all of your options before the Court decides whether to approve the Settlement. This package describes the Actions, the Settlement, and your legal rights.

### 2. What is this lawsuit about?

On January 30, 2013 and February 7, 2013, two putative class actions were filed on behalf of holders of Pervasive common stock in the 201st and 250th Judicial Districts, respectively, of the District Court of Travis County, Texas<sup>2</sup> and were subsequently consolidated (the “Texas Actions”). Also on January 30, 2013, plaintiff the Joel Rosenfeld IRA filed a putative class action entitled, *Joel Rosenfeld IRA v. Pervasive Software Inc.*, Civil Action No. 8265 in the Delaware Court of Chancery (the “Delaware Action,” and together with the Texas Actions, the “Actions”). The Actions allege various claims for breach of fiduciary duty and seek, among other things, injunctive relief in connection with the Acquisition.

The Settlement is the product of: (1) Plaintiffs’ Counsel’s independent investigation into the Acquisition; (2) Plaintiffs’ Counsel’s review of certain discovery material produced by Defendants at the request of Plaintiffs’ Counsel; and (3) Plaintiffs’ Counsel’s determination that the Settlement of the Actions is in the best interests of the Settlement Class.

If the Court approves the Settlement, all members of the Settlement Class will release claims, including any claims relating to the Acquisition or to matters alleged in the Actions,

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<sup>2</sup> *Arunachalam v. Pervasive Software Inc.*, Cause No. D-1-GN-13-000352 was filed on January 28, 2013 and *Rosello v. Pervasive Software Inc.*, Cause No. D-1-GN-13-000479 (the “Rosello Action”), a class and shareholder derivative petition, was filed on February 7, 2013.

against the Defendants and certain others who are related to Defendants (“Released Persons”). The Released Claims, however, do not include the right of any member of the Settlement Class to seek appraisal rights pursuant to section 262 of the Delaware General Corporation Law pursuant to the terms of the Acquisition. The exact terms of the release are contained in the Stipulation, which may be inspected during business hours at the office of the Clerk of the 201st District Court of Travis County, Texas at 1000 Guadalupe, 5th Floor, Austin, Texas 78701 and viewed on the Investors/SEC Filings section of Pervasive’s website at [www.pervasive.com](http://www.pervasive.com).

### **3. Why is this a class action?**

In a class action, one or more persons sue on behalf of people who have similar claims. These people are collectively referred to herein as the Settlement Class. The Court has appointed plaintiffs Kumar Arunachalam and Patrick Rosello to act as representatives of the Settlement Class. The Court will resolve the issues for all the members of the Settlement Class.

### **4. Why is there a Settlement?**

**THE FOLLOWING RECITATION DOES NOT CONSTITUTE FINDINGS OF THE COURT. IT IS BASED ON STATEMENTS OF THE PARTIES AND SHOULD NOT BE UNDERSTOOD AS AN EXPRESSION OF ANY OPINION OF THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES RAISED BY ANY OF THE PARTIES.**

On August 13, 2012, Actian Corporation (“Actian”) publicly announced its interest in acquiring all of the outstanding shares of Pervasive.

On January 28, 2013, Pervasive and Actian announced that they had entered into a definitive agreement and plan of merger (the “Merger Agreement”), whereby, subject to certain customary conditions, Actian, through its wholly owned subsidiary, Actian Sub II, Inc. (“Merger Sub”) (together with Actian, the “Actian Defendants”), would acquire all outstanding shares of Pervasive at a price of \$9.20 per share in cash (the “Acquisition”).

On January 30, 2013, plaintiff Kumar Arunachalam filed a class action petition entitled *Arunachalam v. Pervasive Software Inc.*, Cause No. D-1-GN-13-000352 (the “Arunachalam

Action”), which was the first of two putative class action lawsuits filed in the Court, the later-filed action being *Rosello v. Pervasive Software Inc.*, Cause No. D-1-GN-13-000479 (the “Rosello Action”), a class and shareholder derivative petition filed on February 7, 2013, which were subsequently consolidated on March 21, 2013 (collectively, the “Texas Actions”).

Also on January 30, 2013, plaintiff the Joel Rosenfeld IRA filed a putative class action entitled *Joel Rosenfeld IRA v. Pervasive Software Inc.*, Civil Action No. 8265 in the Delaware Court of Chancery (the “Delaware Action,” and together with the Texas Actions, the “Actions”) (the plaintiffs in the Actions shall be referred to herein as the “Plaintiffs”).

The Actions challenged the Acquisition and named as defendants John Farr, Michael E. Hoskins, Shelby H. Carter, Jr., Nancy R. Woodward, David A. Boucher, David R. Bradford, Jeffrey S. Hawn (collectively, the “Individual Defendants”), and Pervasive (Pervasive together with the Individual Defendants, the “Pervasive Defendants”), and the Action Defendants (the Action Defendants together with the Pervasive Defendants, the “Defendants”)

On March 1, 2013, plaintiffs in the Arunachalam Action and Rosello Action each filed amended class action petitions.

On March 21, 2013, the Court consolidated the Texas Actions and appointed counsel for plaintiffs in *Arunachalam v. Pervasive*, Cause No. D-1-GN-13-000352 and *Rosello v. Pervasive*, Cause No. D-1-GN-13-000479 as Plaintiffs’ Interim Co-Lead Counsel for the Texas Actions (together with counsel for plaintiff the Joel Rosenfeld IRA in the Delaware Action, “Plaintiffs’ Counsel”).

Between March 15 and March 22, 2013, the Pervasive Defendants produced documents regarding the Acquisition to Plaintiffs’ Counsel.

Plaintiffs’ Counsel represent that they engaged financial experts for the purposes of assisting them with litigating the Actions, and reviewed and analyzed the information obtained through discovery with these financial experts.

Counsel for Defendants and Plaintiffs (together with their respective clients, each a Party and collectively, the “Parties”), have engaged in extensive negotiations concerning a possible settlement of the Actions.

On April 3, 2013, the Parties entered into a Memorandum of Understanding (“MOU”), reaching an agreement-in-principle to settle the Actions, pursuant to which Pervasive agreed to certain amended and supplemental disclosures (the “Supplemental Disclosures”) in a supplemental Form 8-K filed with the U.S. Securities and Exchange Commission (“SEC”).

On April 4, 2013, in accordance with the MOU, Pervasive filed with the SEC a Form 8-K containing the Supplemental Disclosures.

The special stockholders’ meeting to vote on the Acquisition occurred at 9:00 a.m. Central Time on April 10, 2013, at 12365-B Riata Trace Parkway, Austin, Texas 78727, at which the Pervasive stockholders approved the Acquisition and on April 11, 2013, the Acquisition of Pervasive was completed.

On April 12, 2013, the Delaware Court of Chancery granted plaintiff Joel Rosenfeld IRA’s request to dismiss the Delaware Action without prejudice.

As part of confirmatory discovery, the Parties engaged in additional document production and Plaintiffs’ Counsel took depositions of Christopher Pingpank of Shea & Company, financial advisor to Pervasive; John Farr, former Chief Executive Officer of Pervasive; and Jeffrey Hawn, a member of Pervasive’s former Board of Directors and the Special Transaction Committee of Pervasive’s Board that oversaw the sale process that culminated in execution of the January 28, 2013 Merger Agreement.

Plaintiffs’ Counsel has determined that a settlement of the Actions on the terms reflected in this Stipulation is fair, reasonable, adequate, and in the best interests of Pervasive’s stockholders.

The Defendants, to avoid the costs, disruption, and distraction of further litigation, and without admitting the validity of any allegations made in the Actions, or any liability with



respect thereto, have concluded that it is desirable that the claims against them be settled on the terms reflected in this Stipulation.

Each of the Pervasive Defendants states that his, her, or its conduct was in the best interests of Pervasive and its stockholders, and all Defendants have denied and continue to deny that he, she, or it has committed or attempted to commit any act or omission giving rise to any liability and/or violation of law, rule, or regulation, or breached any duty owed to Pervasive and/or its stockholders, or aided and abetted any breach of any fiduciary duty and/or violation of law, rule, or regulation.

The Parties now wish to resolve the claims asserted by Plaintiffs in the Actions and all claims arising out of the Acquisition, and, following arm's-length negotiations, have reached an agreement as set forth in this Stipulation providing for the settlement of the Actions on the terms and conditions set forth in the Stipulation, and believe the Settlement is in the best interests of the Parties and the Settlement Class.

#### **5. How do I know if I am part of the Settlement?**

For purposes of the Settlement, the Court has preliminarily certified a class pursuant to Rule 42 of the Texas Rules of Civil Procedure, for settlement purposes only, of any and all shareholders of Pervasive who held stock at any time during the period from and including August 6, 2012, through and including April 11, 2013, the date of the consummation of the Acquisition, including any and all of their representatives, trustees, executors, heirs, assigns, transferees and any persons or entity acting for or on behalf of, or claiming under any of them and each of them (other than the Defendants, members of the immediate family of any Defendant, any entity in which a Defendant has or had a controlling interest, and affiliates, successors in interest, predecessors, representatives, trustees, executors, heirs, assigns, or transferees and any person or entity acting for or on behalf of, or claiming under any of them and each of them).

**6. What are the exceptions to being included?**

You are not a member of the Settlement Class if you are: (i) a Defendant; (ii) a member of an Individual Defendants' immediate family; or (iii) any person over whom any Defendant exercises sole or exclusive control. Also excluded from the Settlement Class are any putative Settlement Class members who exclude themselves by filing a request for exclusion in accordance with the requirements set forth in the Notice.

**7. I am still not sure if I am included.**

If you are still not sure whether you are included as a member of the Settlement Class, you can ask for free help. You can call or write to Plaintiffs' Counsel at the following address for more information: Stephen J. Oddo, Esq., Robbins Arroyo LLP, 600 B Street, Suite 1900, San Diego, California 92101, telephone: (619) 525-3990, facsimile: (619) 525-3991.

**8. What benefits were obtained as part of the Settlement?**

On April 4, 2013, Pervasive filed with the SEC a Form 8-K containing certain supplemental disclosures regarding, among other things, the background of the Acquisition and the opinions provided by Pervasive's financial advisor regarding the Acquisition, including additional information regarding the selected precedent transactions analysis and selected public company trading analysis with respect to the Acquisition. Plaintiffs and Plaintiffs' Counsel reviewed the subject matter contained in the Disclosures and deem them an adequate basis for settling the Actions. Defendants in the Actions acknowledge that the pendency and prosecution of the Actions and the desirability of addressing Plaintiffs' claims in the Actions resulted in the decision to disclose supplemental information in the 8-K.

**THE LAWYERS REPRESENTING YOU**

**9. Do I have a lawyer in this case?**

The Court appointed the following law firms to represent the named Plaintiffs and all the Settlement Class:

ROBBINS ARROYO LLP  
600 B Street, Suite 1900  
San Diego, CA 92101

Telephone: (619) 525-3990

and

BROWER PIVEN, Professional Corporation  
475 Park Avenue South, 33rd Floor  
New York, NY 10016  
Telephone (212) 501-9000

If you want to be represented by your own lawyer, you may hire one at your own expense.

**10. How will the lawyers be paid?**

Plaintiffs' Counsel has neither received any payment for their services in conducting the Actions on behalf of Plaintiffs and the Settlement Class, nor have Plaintiffs' Counsel been reimbursed for their out-of-pocket expenses incurred to date. After negotiating the other elements of the Settlement, the Parties have agreed that Plaintiffs may seek an award of attorneys' fees and expenses up to \$425,000, to be paid by Pervasive's insurance carrier, in full settlement of Plaintiffs' claim for attorneys' fees and expenses (the "Fee and Expense Amount"). The Parties understand and agree that payment of the Fee and Expense Amount is subject to the Court's approval. The Parties further stipulate that Plaintiffs' Counsel may apply to the Court for a Service Award of \$9,500 for plaintiff Kumar Arunachalam and \$2,500 each for plaintiffs Patrick Rosello and the Joel Rosenfeld IRA, only to be paid upon Court approval, in recognition of Plaintiffs' participation and effort in the prosecution of the Actions (the "Service Awards"). The failure of the Court to approve the requested Service Awards, in whole or in part, shall have no effect on the Settlement set forth in the Stipulation. The Service Awards, if approved by the Court, shall be paid to Plaintiffs from the Fee and Expense Amount. Defendants shall not be liable for any portion of any Service Award. Neither you nor any other member of the Settlement Class is personally liable for the Fee and Expense Amount or the Service Awards if the Settlement is approved. The sum approved by the Court will be the only payment to Plaintiffs' Counsel for its efforts in achieving this Settlement and for their risk in undertaking this representation on a wholly contingent basis.

## THE SETTLEMENT HEARING

### **11. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a hearing to decide whether to approve the Settlement. The Court will hold a Settlement Hearing at 2:00 p.m., on November 13, 2013, before the Honorable Judge of the 201st District Court of Travis County, Texas, located at 1000 Guadalupe, 5th Floor, Austin, Texas 78701. At the Settlement Hearing, the Court will consider: (i) whether the Settlement Class should be certified for settlement purposes; (ii) whether the Settlement of the Actions on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate to the Settlement Class and should be approved by the Court; (iii) whether the Actions should be dismissed with prejudice; (iv) whether the Service Awards should be approved; (v) whether the Fee and Expense Amount should be approved; and (vi) rule on such other matters as the Court may deem appropriate. If there are objections, the Court will consider them. The Court may decide these issues at the Settlement Hearing or take them under advisement to issue a written opinion. We do not know how long these decisions will take.

### **12. Do I have to come to the Settlement Hearing?**

No. Plaintiffs' Counsel will answer questions the Court may have. But you are welcome to come at your own expense. If you send an objection (described further in Question 15), you do not have to come to Court to talk about it. As long as your written objection is received on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

### **13. May I speak at the Settlement Hearing?**

If you are member of the Settlement Class who has submitted a written objection, you may ask the Court for permission to speak at the Settlement Hearing. To do so, you must mail a letter called a "Notice of Intention to Appear at Settlement Hearing in *In re Pervasive Software, Inc. Shareholder Litigation*," which shall include a statement of intent to be heard if the you or your lawyer requests to address the Court at the Settlement Hearing, a description of any law or case supporting the objection, and copies of any documents sought to be presented in support of

the objection. Be sure to include your name, address, telephone number, your signature, and the number of shares of Pervasive common stock you held at any time during the period from August 6, 2012, through and including April 11, 2013 and what date you acquired your shares. Your Notice of Intention to Appear must be received at least ten business days prior to the date of the Settlement Hearing by the Clerk of the Court and Plaintiffs' Counsel at the addresses listed in Question 15.

### **IF YOU DO NOTHING**

#### **14. What happens if I do nothing at all?**

If you do nothing, you will still be bound by the judgment of the Court. That means that you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Released Persons about the same claims and issues in the Actions if the Settlement is approved by the Court.

### **OBJECTING TO THE SETTLEMENT**

#### **15. How do I tell the Court that I do not like the Settlement?**

You can tell the Court that you do not agree with the Settlement or some part of it. Objecting is simply telling the Court that you do not like something about the Settlement. If you are a member of the Settlement Class, you can object to the Settlement if you do not like any part of it. You must give reasons why you think the Court should not approve it. The Court will consider your views. Any objection must be in writing and include your name, address, telephone number, your signature, and the number of shares of Pervasive common stock you held at any time during the period from August 6, 2012, through and including April 11, 2013, and what date you acquired your shares. If you are represented by counsel, your objection must also include the name, address, and telephone number of your counsel. Any objection to the Settlement must be delivered **at least ten business days prior to the Settlement Hearing** to each of the following:

*The Court:*

Clerk of the Court  
201st District Court  
of Travis County, Texas  
1000 Guadalupe, 5th Floor  
Austin, Texas 78701

*Counsel for Plaintiffs:*

ROBBINS ARROYO LLP  
Attn: Stephen J. Oddo, Esq.  
600 B Street, Suite 1900  
San Diego, CA 92101

## EXCLUDING YOURSELF FROM THE SETTLEMENT

### 16. How do I get out of the proposed Settlement?

To exclude yourself from the Settlement Class, you must send a signed letter by mail stating that you “request exclusion from the Settlement Class in *In re Pervasive Software, Inc. Shareholder Litigation*.” Your letter should clearly indicate your name, address, and telephone number, and the number of shares of Pervasive common stock you held at any time during the period from and including August 6, 2012, through and including April 11, 2013, and must be signed by you and any co-owner of the shares. You must mail your exclusion request postmarked no later than **October 29, 2013** to:

Pervasive Shareholder Lawsuit Exclusions  
c/o Paul J. Collins, Gibson, Dunn & Crutcher LLP, Notice Agent  
1881 Page Mill Road  
Palo Alto, CA 94304-1211

You cannot exclude yourself by telephone or by e-mail. If you ask to be excluded you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit, and you may be able to sue (or continue to sue) the Defendants and the other Released Parties in the future.

**17. If I do not exclude myself, if the Settlement is approved, can I sue the Defendants and the other Released Parties for the same thing later?**

No. Unless you exclude yourself, if the Settlement is approved you give up any rights to sue the Defendants and the other Released Parties for any and all Released Claims. If you have a pending lawsuit speak to your lawyer in that case immediately. You must exclude yourself from *this* Settlement Class to continue your own lawsuit. Remember, the exclusion deadline is **October 29, 2013**.

**GETTING MORE INFORMATION**

**18. Are there more details about the Settlement?**

This Notice summarizes the proposed Settlement. This summary is qualified by, and subject to, the detailed terms of the Stipulation and Agreement of Settlement together with its Exhibits dated August 29, 2013.

**19. How do I get more information?**

There is additional information concerning the Settlement available in the Stipulation, which may be viewed on the Investors/SEC Filings section of Pervasive's website at [www.pervasive.com](http://www.pervasive.com). You may also inspect the Stipulation during business hours at the office of the Clerk of the 201st District Court of Travis County, Texas, located at 1000 Guadalupe, 5th Floor, Austin, Texas 78701.

**PLEASE DO NOT TELEPHONE THE**  
**COURT REGARDING THIS NOTICE**