

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

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**In the Matter of**

**ON SEMICONDUCTOR CORPORATION,  
a corporation.**

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) **FTC File Number 161-0061**  
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**AGREEMENT CONTAINING CONSENT ORDER**

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed acquisition by ON Semiconductor Corporation (“Respondent”) of Fairchild Semiconductor International, Inc. (“Fairchild”), and it now appearing that Proposed Respondent is willing to enter into this Agreement Containing Consent Order (“Consent Agreement”) to divest certain assets and providing for other relief:

**IT IS HEREBY AGREED** by and between Proposed Respondent, by its duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed Respondent ON Semiconductor Corporation is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Delaware, with its corporate office and principal place of business located at 5005 E. McDowell Road, Phoenix, AZ 85008.
2. Fairchild is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Delaware, with its corporate office and principal place of business located at 3030 Orchard Parkway, San Jose, CA 95134.
3. Proposed Respondent admits all the jurisdictional facts set forth in the draft of Complaint here attached.
4. Proposed Respondent waives:
  - a. any further procedural steps;
  - b. the requirement that the Commission’s Decision and Order, attached hereto and made a part hereof, contain a statement of findings of fact and conclusions of law;
  - c. all rights to seek judicial review or otherwise challenge or contest the validity of the Decision and Order entered pursuant to this Consent Agreement; and

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- d. any claim under the Equal Access to Justice Act.
5. Not later than thirty (30) days after the date this Consent Agreement is signed by Proposed Respondent, Proposed Respondent shall submit an initial report, pursuant to Section 2.33 of the Commission's Rules, 16 C.F.R. § 2.33. Proposed Respondent shall also submit subsequent reports every thirty (30) days thereafter until the Decision and Order becomes final, at which time the reporting obligations contained in the Decision and Order (other than the requirement to submit an initial report pursuant to this Consent Agreement) shall control. Such reports shall be signed by Proposed Respondent and shall set forth in detail the manner in which Proposed Respondent has complied and will comply with the Decision and Order. Such reports will not become part of the public record unless and until the Consent Agreement and Decision and Order are accepted by the Commission for public comment.
6. In each report described in Paragraph 5, Proposed Respondent shall provide sufficient information and documentation to enable the Commission to determine independently whether the Proposed Respondent is in compliance with this Consent Agreement and the Decision and Order. Each report shall be verified by a notarized signature or sworn statement of an employee of the Proposed Respondent specifically authorized to perform this function, or shall be self-verified in the manner set forth in 28 U.S.C. § 1746. Section 2.41(a) of the Commission's Rules of Practice requires that an original and two (2) copies of all compliance reports be filed with the Commission. Proposed Respondent shall file an original report and one (1) copy with the Secretary of the Commission, and shall send at least one (1) copy directly to the Bureau of Competition's Compliance Division.
7. This Consent Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Consent Agreement is accepted by the Commission, it, together with the draft of Complaint contemplated thereby, will be placed on the public record for a period of thirty (30) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Consent Agreement and so notify Proposed Respondent, in which event it will take such action as it may consider appropriate, or issue its Complaint (in such form as the circumstances may require) and issue and serve its Decision and Order, in disposition of the proceeding.
8. This Consent Agreement is for settlement purposes only and does not constitute an admission by Proposed Respondent that the law has been violated as alleged in the draft of Complaint here attached, or that the facts as alleged in the draft of Complaint, other than jurisdictional facts, are true.
9. This Consent Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, 16 C.F.R. § 2.34, the Commission may, without further notice to Proposed Respondent: (1) issue and serve its Complaint

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corresponding in form and substance with the draft of Complaint here attached and its Decision and Order, and (2) make information public with respect thereto.

10. When final and effective, the Decision and Order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Decision and Order shall become final and effective upon service. Delivery of the Complaint and the Decision and Order to Proposed Respondent by any means provided in Commission Rule 4.4(a), 16 C.F.R. § 4.4(a) – including, but not limited to, delivery to an office within the United States of Jeff Jaeckel, Esq.: Morrison & Foerster LLP, 2000 Pennsylvania Avenue, NW, Washington, DC 20006-1888 – shall constitute service as to Proposed Respondent. Proposed Respondent waives any right it may have to any other manner of service. Proposed Respondent also waives any right it may otherwise have to service of any Appendices incorporated by reference into the Decision and Order, and agree that it is bound to comply with and will comply with the Decision and Order to the same extent as if it had been served with copies of the Appendices, where Proposed Respondent is already in possession of copies of such Appendices.
11. The Complaint may be used in construing the terms of the Decision and Order, and no agreement, understanding, representation, or interpretation not contained in the Decision and Order or the Consent Agreement may be used to limit or contradict the terms of the Decision and Order.
12. By signing this Consent Agreement, Proposed Respondent represents and warrants that Proposed Respondent can accomplish the full relief contemplated by the attached Decision and Order (including effectuating all required divestitures, assignments, and transfers) and that all parents, subsidiaries, affiliates, and successors necessary to effectuate the full relief contemplated by this Consent Agreement are: (i) within the control of the parties to this Consent Agreement, or (ii) will be in the control of the parties to this Consent Agreement after the proposed acquisition.
13. By signing this Consent Agreement, Proposed Respondent represents and warrants that each Divestiture Agreement (as defined in the Decision and Order) that has been submitted to the Commission at the time of this Consent Agreement for approval by the Commission in connection with the Commission's determination to make the Decision and Order final comports with all of the relevant requirements of the Decision and Order and requires Proposed Respondent to divest all assets required to be divested pursuant to the relevant requirements of the Decision and Order.
14. Proposed Respondent agrees that it shall interpret each Divestiture Agreement in a manner that is fully consistent with all of the relevant provisions and remedial purposes of the Decision and Order.
15. Proposed Respondent has read the draft Complaint and the Decision and Order contemplated hereby. Proposed Respondent understands that once the Decision and

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Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Decision and Order.

16. Proposed Respondent agrees to comply with the terms of the proposed Decision and Order from the date it signs this Consent Agreement. Proposed Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Decision and Order after it becomes final and effective.

**ON SEMICONDUCTOR CORPORATION**

By: \_\_\_\_\_

George H. Cave, Esq.  
Executive Vice President and General Counsel  
ON Semiconductor Corporation

Date: \_\_\_\_\_

\_\_\_\_\_  
Jeff Jaeckel, Esq.  
Morrison & Foerster LLP  
Counsel for ON Semiconductor Corporation

Date: \_\_\_\_\_

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**FEDERAL TRADE COMMISSION**

By: \_\_\_\_\_  
Dominic E. Vote  
Deputy Assistant Director  
Bureau of Competition  
Date: \_\_\_\_\_

\_\_\_\_\_  
Benjamin Gris  
Assistant Director  
Bureau of Competition  
Date: \_\_\_\_\_

\_\_\_\_\_  
Deborah L. Feinstein  
Director  
Bureau of Competition  
Date: \_\_\_\_\_