

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARK PATENAUDE,	:	
	:	Case No. _____
Plaintiff,	:	
	:	COMPLAINT FOR VIOLATIONS OF
vs.	:	THE FEDERAL SECURITIES LAWS
	:	
SORL AUTO PARTS, INC., XIAO PING	:	
ZHANG, XIAO FENG ZHANG, SHU PING	:	JURY TRIAL DEMANDED
CHI, YU HONG LI, HUI LIN WANG, JIN BAO	:	
LIU, JIANG HUA FENG, XIAO LIN, and	:	
BINGHUA FENG,	:	
Defendants.	:	
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Plaintiff Mark Patenaude (“Plaintiff”), upon information and belief, including an examination and inquiry conducted by and through his counsel, except as to those allegations pertaining to Plaintiff, which are alleged upon personal belief, alleges the following for his Complaint:

NATURE AND SUMMARY OF THE ACTION

1. This action is brought by Plaintiff against SORL Auto Parts, Inc. (“SORL” or the “Company”) and the members of SORL’s Board of Directors (the “Board” or the “Individual Defendants”) for their violations of Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§ 78n(a), 78t(a), and U.S. Securities and Exchange Commission (“SEC”) Rule 14a-9, 17 C.F.R. § 240.14a-9, and to enjoin the vote on a proposed transaction, pursuant to which SORL will be acquired by Ruili International Inc., a Delaware limited liability company (“Parent”), and Ruili International Merger Sub Inc., a Delaware corporation and a wholly-owned subsidiary of Parent (“Merger Sub”) (the “Proposed

Transaction”). Parent and Merger Sub were formed on behalf of a consortium consisting of Xiao Ping Zhang (“Ping Zhang”), the Company’s Chairman and Chief Executive Officer (“CEO”), Shu Ping Chi (“Chi”) and Xiao Feng Zhang (“Feng Zhang”), directors of the Company, and all co-founders of Ruili Group Co., Ltd. (“Ruili Group” and collectively, the “Consortium”). Ping Zhang, Chi, and Feng Zhang collectively, beneficially own approximately 58.83% of the outstanding shares of Company common stock.

2. On November 29, 2019, SORL issued a press release announcing that it had entered into an Agreement and Plan of Merger dated November 29, 2019 (the “Merger Agreement”). Under the terms of the Merger Agreement, each SORL stockholder will be entitled to receive \$4.72 in cash for each share of SORL common stock they own (the “Merger Consideration”).

3. On January 2, 2020, SORL filed a Schedule 14A Preliminary Proxy Statement (as amended on January 6, 2020, February 11, 2020, and March 3, 2020, the “Proxy Statement”) with the SEC. The Proxy Statement, which recommends that SORL stockholders vote in favor of the Proposed Transaction, omits or misrepresents material information concerning, among other things: (i) the background process leading to the Proposed Transaction; and (ii) the data and inputs underlying the financial valuation analyses that support the fairness opinion of Duff & Phelps LLC (“D&P”). Defendants authorized the issuance of the false and misleading Proxy Statement in violation of Sections 14(a) and 20(a) of the Exchange Act.

4. In short, unless remedied, SORL’s public stockholders will be irreparably harmed because the Proxy Statement’s material misrepresentations and omissions prevent them from making a sufficiently informed voting or appraisal decision on the Proposed Transaction. Plaintiff seeks to enjoin the stockholder vote on the Proposed Transaction unless and until such Exchange Act violations are cured.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the claims asserted herein for violations of Sections 14(a) and 20(a) of the Exchange Act and SEC Rule 14a-9 promulgated thereunder pursuant to Section 27 of the Exchange Act, 15 U.S.C. § 78aa, and 28 U.S.C. § 1331 (federal question jurisdiction).

6. This Court has jurisdiction over the 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.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because defendants are found or are inhabitants or transact business in this District. SORL's common stock trades on the NASDAQ Global Market, which is headquartered in this District, rendering venue in this District appropriate in this District.

THE PARTIES

8. Plaintiff is, and has been at all times relevant hereto, a continuous stockholder of SORL.

9. Defendant SORL is a Delaware corporation with its principal executive offices at No. 2666 Kaifaqu Avenue, Rui'an Economic Development District, Rui'an City, Zhejiang Province 325200, People's Republic of China. Through its 90% ownership of Ruili Group Ruian Auto Parts Co., Ltd., a Sino-foreign joint venture (the "Joint Venture"), the Company develops, manufactures and distributes automotive brake systems and other key safety related auto parts to automotive original equipment manufacturers ("OEMs"), and the related aftermarket both in China and abroad. The Company's common stock trades on the NASDAQ Global Market under the ticker symbol "SORL."

10. Defendant Ping Zhang has been CEO of the Company and Chairman of the Board since its inception in 1982. Defendant Ping Zhang is also the founder of the Ruili Group and has been its Chairman since 1987.

11. Defendant Feng Zhang has been a director of the Company since its inception in 1982. Defendant Feng Zhang co-founded the Ruili Group and is the brother of defendant Ping Zhang.

12. Defendant Chi has been a director of the Company since 2014. Defendant Chi also co-founded the Ruili Group and is the wife of defendant Ping Zhang.

13. Defendant Yu Hong Li (“Li”) has been a director of the Company since June 2015.

14. Defendant Hui Lin Wang (“Wang”) has been a director of the Company since June 2015. Defendant Wang previously served as the Chief Engineer of the Ruili Group from 2002 to 2009.

15. Defendant Jin Bao Liu (“Liu”) has been a director of the Company since June 2015. Defendant Liu previously served as the Vice Chief Engineer of the Ruili Group from 2000 to 2003.

16. Defendant Jiang Hua Feng (“Jiang Feng”) has been a director of the Company since August 2004.

17. Defendant Xiao Lin (“Lin”) has been a director of the Company since May 2019.

18. Defendant Binghua Feng (“B. Feng”) has been a director of the Company since May 2019.

19. Defendants identified in paragraphs 10–18 are referred to herein as the “Board” or the “Individual Defendants.”

OTHER RELEVANT ENTITIES

20. Ruili Group is a limited liability company incorporated under the laws of the People’s Republic of China in 1987. Ruili Group primarily engages in the development,

production and sale of various types of automotive parts. Defendants Ping Zhang, Feng Zhang and Chi collectively, control Ruili Group.

21. Parent is a Delaware corporation and was formed by defendant Ping Zhang.
22. Merger Sub is a Delaware corporation and wholly-owned subsidiary of Parent.

SUBSTANTIVE ALLEGATIONS

Background of the Company and Proposed Transaction

23. Through its 90% ownership of the Joint Venture, SORL develops, manufactures and distributes automotive brake systems and other key safety related auto parts to Commercial Vehicles and Passenger Vehicles. The Company has positioned itself to be the leading commercial vehicle air brake systems manufacturer in China. Its customers are generally divided into three groups: OEMs in China, aftermarket distributors in China, and international customers. SORL has established long-term business relationships with most of the major vehicle manufacturers in China. It sells its products to approximately 70 vehicle manufacturers, including a majority of the key truck manufacturers in China. In addition to heavy-duty trucks, SORL's products are also widely used in brake systems for buses. The Company's Chinese aftermarket network consists of 56 authorized distributors and over 2,000 sub-distributors throughout China. The Company has international sales centers in UAE, the United States and Europe, and is working to establish a broader global sales network.

24. On November 14, 2019, SORL announced its financial results for the third quarter of 2019, including a third quarter record high of \$112.2 million in Net sales, an increase of 3.4% compared to \$108.6 million in the third quarter of 2018. Net income attributable to stockholders was \$4.2 million and basic and diluted income per share were \$0.22 for the period. Reflecting on the Company's performance, Defendant Ping Zhang stated:

2019 remains a challenging market environment for the Chinese automotive sector as the Chinese economy is experiencing deceleration along with the intensified trade war. During the quarter, our strong product portfolio and balanced sales channels between OEM and aftermarket enabled us to weather the economic slowdown in China. While our domestic OEM business was affected by the slow commercial vehicle sales in the third quarter of 2019, the growing regionally tiered sales network continued to pace the market share expansion of our aftermarket business. We continued to maintain a high gross margin as our technology content remains strong.

25. On November 29, 2019, SORL issued a press release announcing the Proposed Transaction. The press release states, in relevant part:

ZHEJIANG, China, Nov. 29, 2019 (GLOBE NEWSWIRE) -- SORL Auto Parts, Inc. (NASDAQ: SORL) (“SORL” or the “Company”), a leading manufacturer and distributor of automotive brake systems as well as other key safety-related auto parts in China, today announced that it has entered into an Agreement and Plan of Merger (the “Merger Agreement”) with Ruili International Inc. (“Parent”), a Delaware corporation and formed on behalf of a consortium consisting of Mr. Xiao Ping Zhang, the Company's Chairman and Chief Executive Officer, Ms. Shu Ping Chi and Mr. Xiao Feng Zhang, directors of the Company, and Ruili Group Co., Ltd. (collectively, the “Consortium”), and Ruili International Merger Sub Inc. (“Merger Sub”), a Delaware corporation and a wholly-owned subsidiary of Parent.

Pursuant to the Merger Agreement, subject to the satisfaction or waiver of all of the conditions to closing:

- Merger Sub will merge with and into the Company, with the Company will thereafter continue as the surviving corporation and a wholly-owned subsidiary of Parent (the “Merger”); and
- at the effective time of the Merger, each share of common stock of the Company issued and outstanding immediately prior to the effective time will be automatically canceled and converted into the right to receive US\$4.72 in cash (the “Merger Consideration”), without interest, except for (i) shares of common stock beneficially owned by members of the Consortium or their affiliates, which will be cancelled for no consideration, and (ii) shares of common stock owned by stockholders who have validly exercised and not effectively withdrawn or lost their rights to dissent from the Merger pursuant to Section 262 of the General Corporation Law of the State of Delaware, which will be cancelled at the effective time of the Merger for the right to receive the fair value of such shares determined in accordance with the provisions of Section 262 of the General Corporation Law of the State of Delaware.

The Merger Consideration of US\$4.72 per share of common stock represents approximately a 26.2% premium over the closing price of the Company's common stock as quoted by NASDAQ Global Select Market (the "NASDAQ") on April 24, 2019, the last trading day prior to the date that the Company received a non-binding "going private" proposal from the Consortium. The Merger Consideration also represents an increase of approximately 10.8% over the US\$4.26 per share initially offered by members of the Consortium in their initial "going-private" proposal on April 25, 2019 and a premium of approximately 39.2% over the Company's closing price of US\$3.39 per share of common stock on November 27, 2019, the last trading day prior to this announcement.

As of the date of the Merger Agreement, the members of the Consortium other than Ruili Group Co., Ltd., beneficially own in the aggregate approximately 58.83% of the total outstanding common stock of the Company and have agreed to vote the shares of common stock beneficially owned by them in favor of the Merger.

The Board of Directors of SORL, acting on the recommendation of a special committee of independent and disinterested directors (the "Special Committee"), unanimously approved the Merger Agreement and the transactions contemplated by the Merger Agreement, including the Merger, and resolved to recommend that the Company's stockholders vote to authorize and approve the Merger Agreement and the and the transactions contemplated by the Merger Agreement, including the Merger. The Special Committee, which is composed solely of independent directors of the Company who are unaffiliated with any member of the Consortium or management of the Company, exclusively negotiated the terms of the Merger Agreement with the Consortium with the assistance of its independent financial and legal advisors.

The Merger, which is currently expected to close during the second quarter of 2020, is subject to various closing conditions, including the adoption of the Merger Agreement by the Company's stockholders. Pursuant to the Merger Agreement, adoption of the Merger Agreement and the transactions contemplated by the Merger Agreement, including the Merger, by the Company's stockholders requires the affirmative vote of (i) the holders of at least a majority of the Company's outstanding shares of common stock and (ii) the holders of at least a majority of the Company outstanding shares of common stock other than the shares of common stock held by members of the Consortium. The Company will call a meeting of stockholders for the purpose of voting on the adoption of the Merger Agreement and the transactions contemplated by the Merger Agreement as soon as practicable. If completed, the Merger will, under laws of the State of Delaware, result in the Company becoming a privately-held company and the Company Common Stock would no longer be listed on the NASDAQ.

Insiders' Interests in the Proposed Transaction

29. SORL insiders are the primary beneficiaries of the Proposed Transaction, not the

Company's public stockholders. The Board and the Company's executive officers are conflicted because they will have secured unique benefits for themselves from the Proposed Transaction not available to Plaintiff and SORL's public stockholders.

30. Notably, several Company insiders will secure positions for themselves with the combined company. Pursuant to the terms of the Merger Agreement, the executive officers of the Company will continue with the surviving corporation in positions that are substantially similar to their current positions.

The Proxy Statement Contains Material Misstatements or Omissions

31. The defendants filed a materially incomplete and misleading Proxy Statement with the SEC and disseminated it to SORL's stockholders. The Proxy Statement misrepresents or omits material information that is necessary for the Company's stockholders to make an informed decision whether to vote in favor of the Proposed Transaction or seek appraisal.

32. Specifically, as set forth below, the Proxy Statement fails to provide Company stockholders with material information or provides them with materially misleading information concerning: (i) the background of the Proposed Transaction; and (ii) the data and inputs underlying the financial valuation analyses that support the fairness opinion of D&P.

Material Omissions Concerning the Background of the Proposed Transaction

33. The Proxy Statement fails to disclose material information concerning the background of the Proposed Transaction.

34. For example, the Proxy Statement fails to disclose the process leading to defendants Lin and B. Feng being appointed to the Board, including whether a search firm was involved in identifying defendants Lin and B. Feng as candidates for the Board or whether one or more of the existing Board members identified defendants Lin and B. Feng as candidates and, if the latter, the

identity of the existing Board members. Additionally, the Proxy Statement fails to disclose defendants Lin and B. Feng's qualifications for serving as members of the Special Committee, including whether they had ever previously served on a special committee or previously been a board member and involved with a sale of a company.

35. The Proxy Statement further fails to disclose the date the special committee of the Board ("Special Committee") first requested that Company management prepare financial projections for the Special Committee's use in evaluating the sale of the Company and the reason it took Company management from at least August 2019 to October 7, 2019 to provide financial projections to the Special Committee and D&P.

36. Additionally, the Proxy Statement fails to disclose how the Company projections used by the Special Committee and D&P in evaluating the Proposed Transaction were created and all assumptions underlying Company management's projections.

37. The omission of this information renders the statements in the "Background of the Merger" section of the Proxy Statement false and/or materially misleading in contravention of the Exchange Act

Material Omissions Concerning D&P's Financial Analyses

38. The Proxy Statement describes D&P's fairness opinion and the various valuation analyses performed in support of its opinion. However, the description of D&P's fairness opinion and analyses fails to include key inputs and assumptions underlying these analyses. Without this information, as described below, SORL's public stockholders are unable to fully understand these analyses and, thus, are unable to determine what weight, if any, to place on D&P's fairness opinion in determining whether to vote in favor of the Proposed Transaction or seek appraisal.

39. With respect to D&P's *Discounted Cash Flow Analysis*, the Proxy Statement fails to disclose (i) the terminal year financial metrics observed and utilized by D&P in the analysis, including for: (a) net revenue; (b) EBITDA; (c) net operating profit after tax; (d) depreciation; (e) amortization; (f) purchase of PP&E; and (g) changes in working capital; and (ii) quantification of the inputs and assumptions used to derive the discount rate range of 12.00% to 13.00%.

40. The omission of this information renders the statements in the "Opinion of Duff & Phelps, Financial Advisor to the Special Committee" section of the Proxy Statement false and/or materially misleading in contravention of the Exchange Act.

41. The Individual Defendants were aware of their duty to disclose the above-referenced omitted information and acted negligently (if not deliberately) in failing to include this information in the Proxy Statement. Absent disclosure of the foregoing material information prior to the stockholder vote on the Proposed Transaction, Plaintiff and the other SORL stockholders will be unable to make an informed decision whether to vote in favor of the Proposed Transaction or seek appraisal and are thus threatened with irreparable harm warranting the injunctive relief sought herein.

CLAIMS FOR RELIEF

COUNT I

Against All Defendants for Violations of Section 14(a) of the Exchange Act and Rule 14a-9 Promulgated Thereunder

51. Plaintiff repeats all previous allegations as if set forth in full.

52. During the relevant period, defendants disseminated the false and misleading Proxy Statement specified above, which failed to disclose material facts necessary to make the statements, in light of the circumstances under which they were made, not misleading in violation of Section 14(a) of the Exchange Act and SEC Rule 14a-9 promulgated thereunder.

53. By virtue of their positions within the Company, the defendants were aware of this information and of their duty to disclose this information in the Proxy Statement. The Proxy Statement was prepared, reviewed, and/or disseminated by the defendants. It misrepresented and/or omitted material facts, including material information about the background of the Proposed Transaction and the data and inputs underlying the financial valuation analyses that support the fairness opinion of D&P. The defendants were at least negligent in filing the Proxy Statement with these materially false and misleading statements.

54. The omissions and false and misleading statements in the Proxy Statement are material in that a reasonable stockholder would consider them important in deciding how to vote on the Proposed Transaction or seek to exercise their appraisal rights.

55. By reason of the foregoing, the defendants have violated Section 14(a) of the Exchange Act and SEC Rule 14a-9(a) promulgated thereunder.

56. Because of the false and misleading statements in the Proxy Statement, Plaintiff is threatened with irreparable harm, rendering money damages inadequate. Therefore, injunctive relief is appropriate to ensure defendants' misconduct is corrected.

COUNT II

Against the Individual Defendants for Violations of Section 20(a) of the Exchange Act

57. Plaintiff repeats all previous allegations as if set forth in full.

58. The Individual Defendants acted as controlling persons of SORL within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their positions as officers and/or directors of SORL, and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements contained in the Proxy Statement filed with the SEC, they had the power to influence and control and did influence and control,

directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiff contends are false and misleading.

59. Each of the Individual Defendants was provided with or had unlimited access to copies of the Proxy Statement and other statements 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 the statements to be corrected.

60. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same. The Proxy Statement at issue contains the unanimous recommendation of each of the Individual Defendants to approve the Proposed Transaction. They were, thus, directly involved in the making of the Proxy Statement.

61. In addition, as the Proxy Statement sets forth at length, and as described herein, the Individual Defendants were each involved in negotiating, reviewing, and approving the Proposed Transaction. The Proxy Statement purports to describe the various issues and information that they reviewed and considered—descriptions the Company directors had input into.

62. By virtue of the foregoing, the Individual Defendants have violated Section 20(a) of the Exchange Act.

63. 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) and SEC Rule 14a-9, promulgated thereunder, 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

Exchange Act. As a direct and proximate result of defendants' conduct, SORL's stockholders will be irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment and preliminary and permanent relief, including injunctive relief, in his favor and against defendants, as follows:

- A. Preliminarily and permanently enjoining defendants and all persons acting in concert with them from proceeding with, consummating, or closing the Proposed Transaction and any vote on the Proposed Transaction, unless and until defendants disclose and disseminate the material information identified above to SORL stockholders;
- B. In the event defendants consummate the Proposed Transaction, rescinding it and setting it aside or awarding rescissory damages to Plaintiff;
- C. Declaring that defendants violated Sections 14(a) and/or 20(a) of the Exchange Act, as well as SEC 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 demands a trial by jury.

Dated: March 4, 2020

WESSLAW LLP

By  _____

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