



Market Announcement

12 February 2024

Attached for the information of the market are ASX's query letter to Audio Pixels Holdings Limited (ASX: AKP) and AKP's response. ASX's enquiries are ongoing.

Issued by

ASX Compliance

9 February 2024

The Manager
ASX Limited
20 Bridge Street
Sydney NSW 2000

Att Yulia Gurdina

Dear Madam,

We respond to your questions as follows:

1. i. No
- ii. No
- iii. No

Background information related to ASX questions 2-4

MEMS fabrication technologies involves the creation of a distinctive sequence of fabrication steps (process flow) that is unique for each and every MEMS device. The practice used throughout the industry to develop a device process flow is to apply a sequence of processes steps and inspect the results and proceed according to the findings. Most steps in a process are intended to either add material (most often through lithography and deposition) or remove material (most often through lithography and etching) or to flatten or smooth or reduce the surface (polishing). In each such step factors such as the environment, temperatures, process time, mechanics, chemistry and many other factors influence the results - not only of the process step itself, but of the sequence of processes steps.

The methodology being used throughout industry to develop and optimize a fabrication process flow is trial and error that involves constant, repetitive and iterative inspection. Often such inspection demands destructive testing. For these reasons, the industry at large heavily relies on the use of “development wafers” (sometimes for “short loops” to examine a singular or small number of process steps, while in other cases to assess the influence of a sequence of processes steps).

Ultimately the results and insight obtained from development wafers get applied to the a fabrication process flow dedicated to the production of functional deliverable wafers.

Development of the fabrication process is considered by the fabricators as “trade secrets”, as the process they acquire represents a significant competitive advantage to ensure compliance, minimize errors and optimizing various processes all in an effort to succeed, maximize yield and reduce costs This is why it is industry’s common practice, is to maintain the process development including inspection internally, as to closely safeguard the results.

However, as is the case with EM some of our fabrication vendors sought to utilize AP’s formidable knowledge in MEMS to assist the vendor during the process development

phases including with wafer inspection. Any such involvement by the company is done with the context and obligation that all such data, findings and techniques are the proprietary property of the vendor provided in support of the vendors activities to develop, optimize, and calibrate mass production of our functional wafers and chips.

The above background serves to contextualize our answers to your inquires 1-4

1, Does AKP consider any of the following to be information that a reasonable person would expect to have a material effect on the price or value of its securities?

(2. If AKP answered “no” to any part of question 1, please advise the basis for that view for each part, commenting specifically on AKP’s representation (reproduced at paragraph A.ii) that much depends on the timely receipt and fabrication success of the wafers and chips).

i. 28 November Information

No. The results of the company’s internal inspection of a single lead development wafer provided to us by the vendor - was not deemed to be material either to the price or value of the securities, as in accordance with commonplace industry’s practice, as well the ASX Listing Rule 3.1 such inspection results of a lead development wafer was:

- a) confidential information of the vendor,
- b) information intended solely for internal assessment of engineering management
- c) involves routine development / inspection steps of developing the manufacturing processes, information that no reasonable person could expect to receive (or understand)
- d) information that cannot be definitively applied, certainly not by AKP as a reflection of the state of fabrication of the deliverable functional wafers being produced by EM at 3 different fabs.

ii. 24 January Information

No. As announced by the company on Dec 17, 2021, EarthMountain (EM) utilized CIDM (Community Integrated Device Manufacturing) models. The relevant aspect of CIDM to this inquiry is to clarify that rather than owning its own fabs, EM utilizes many existing independent fabs to meet its fabrication obligations.

The 24 January Information reflects one of the common challenges involved in a CIDM model in that the vendor in this case EM, is wholly dependent on its contracted fab. In this case the 6” fab independently decided to reprioritize its “workload” for its own internal reasons. As stated, management was informed by EM on 24 January 2024 of the 6” fabs regrettable decision to temporary suspend production of our MEMS-GEN-II wafers due to the re-prioritization of their fabrication facility.

At the time management was informed of this information by EM the information was not deemed to be material to either the price or value of the securities, as:

- a) This information was indirect and unverifiable to management as it was information received from the 6" fab via EM.
- b) The information as was provided to management reflected ongoing discussions between EM and their 6" fab vendor, who to this very date have yet to resolve this issue as they continue to negotiate the expeditious resumption and completion of fabrication of our MEMS GEN-II wafer as chips.
- c) In any event the 6" fabs decision had no direct impact or influence on EM's ability or timeline to fabricate MEMS-GEN-II wafers and chips at EM's two other facilities (8").
- d) Furthermore, what the company actually announced is that it is waiting to receive MEMS-GEN-II wafers and chips in order to demonstrate the commercial version of our technology. The company did not state any particular preference or expectation as to whether such MEMS-GEN-II wafers/chips would originate from the 6" or 8" fabs.

iii. 8" Fab information

In many ways this is a repeat of our answer to your query "i" (28 November), as the information provided in the activity report included in the "Quarterly Activities/Appendix 4C Cash Flow Report", was at the time and to this very day information that is purely speculative as nature, as neither the Fab nor vendor and certainly not the Company's management is able to determine the length of time it will take to adequately resolve the current wafer stress issue described in the 4C .

Furthermore, stress management of wafers throughout the semiconductor industry and especially in MEMS is a well-known "engineering task" that each and every fab must address as part of their normal wafer fabrication. Each fab manages stress differently and Fabs maintain their stress management techniques as a "trade secret". Therefore no reasonable person could or should expect to receive such information, certainly not information involving the fabrication of our MEMS-GEN-II using 8" wafers for the first time ever.

As stated the methodologies applied by each fab to manage wafer stress is highly proprietary and confidential in this case we required obtaining prior approval from EM's senior management to even make reference to this matter in passing in our 4C.

Lastly such information is and accurate to today remains uncertain and therefore highly speculative as it remains impossible for management to know what stress management techniques are being applied by the fab for management to even begin to speculate the associated timelines that many be required by the vendor to deliver functional MEMS-GEN-II wafers/ chips.

3. When did AKP first become aware of the 24 January Information and 8" Fab Information?

- 24 January information – as stated on Jan 24 and even then, not definitive as to the best of management knowledge EM and the 6” fab continue to negotiate resumption of fabrication of our MEMS-GEN-II wafers/chips
- 8” Fab Information –
as explained earlier, wafer stress / stress management is not a specific event but rather an ongoing fabrication challenge that requires the fabs to constantly monitor and address throughout the fabrication process flow.

On Jan 18, 2024, the company was informed by the vendor that they were “systematically reviewing the stress issue”, and working with both fabs to resolve it, and that further updates will be provided as they progress with their efforts. The reason the vendor decided to take a systemic approach was that both 8” fabs detected excessive stress after undergoing a particular late stage process step.

This was detailed in the 4C (and remains correct today) as the vendor and fabs continue to work on this particular, yet to be fully resolved issue.

4. If AKP answered “yes” to any part of question 1, please explain why AKP disclosed this information in its quarterly activities report, and not at the time it became aware of the information. In your answer, please explain how AKP considers this to be consistent with its obligations under Listing Rule 3.1 to immediately disclose material information.

- Not Applicable

5. ASX notes that AKP’s answer to section 8.6.3 of the Appendix 4C Cash Flow Report appears to indicate that receipt of funds under the placement to Earth Mountain is the basis on which AKP expects to continue its operations and meet its business objective for the next two quarters (paragraph B.ii).

5.1 Please confirm whether AKP, by answering section 8.6.3 in this manner, has a reasonable basis to assume that the funds will be received within the next two quarters.

- Yes, AKP has not received any kind of official notice that may otherwise and there management continues to believe that EM is making every effort within its abilities to submit the committed funds within the next two quarters.

5.2 If the answer to question 5.1 is “yes”, please produce any documents or communications relied on by the board of AKP in making this statement (not for market release).

5.3 If the answer to question 5.1 is “no”, please provide an answer to section 8.6.3 which does not reference the placement to Earth Mountain, given its apparent irrelevance to AKP for the next two quarters.

- Not Applicable

6. Please confirm that AKP is complying with the Listing Rules and, in particular, Listing Rule 3.1.

- Yes. The Company confirms it is in full compliance with the listing Rules and, in particular Listing Rule 3.1.

7. Please confirm that AKP's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of AKP with delegated authority from the board to respond to ASX on disclosure matters.

- The Company confirms that these answers have been confirmed and authorised by an authorised officer of AKP having delegated authority of the board to ASX disclosure matters.

Yours faithfully,



Shawn van Boheemen
Company Secretary



6 February 2024

Reference: ODIN87586

Mr Shawn Van Boheemen
Company Secretary
Audio Pixels Holdings Limited
Suite 3, Level 12
75 Elizabeth Street
SYDNEY NSW 2000

By email

Dear Mr Van Boheemen

Audio Pixels Holdings Limited ('AKP'): Aware Query

ASX refers to the following:

- A. AKP's announcement titled "Quarterly Activities/Appendix 4C Cash Flow Report", released on the ASX Market Announcements Platform ('MAP') on 31 January 2024, which stated (relevantly, emphasis added):
- i. *"On the 28 Nov 2023 EM informed the company that the lead wafers produced by the 6" fab failed basic electrical testing. Failure Analysis conducted by the company upon receipt of the wafer, revealed the root cause to be a faulty etch process in one of the earlier fabricated layers of the device, an easily correctable problem. ('28 November Information')*
- On 24 Jan 2024 the 6" fab informed the vendor that it must temporarily suspend advancing the backup batches of our wafers due to an unanticipated increase in demand by a very significant Fab customer. To resolve their production bottleneck, the fab acquired additional equipment which they anticipate bringing online in mid to late February. Once they are able to resume fabrication it is estimated that 5-6 weeks will be needed to bring the lead backup batch to completion. ('24 January Information')*
- Wafer production at both 8" fabs was proceeding ahead of pace until one of the last steps of fabrication when it encountered a particular problem related to excessive wafer stress. One of the major challenges in MEMS (and semiconductor) fabrication, is that stress is accumulated throughout each of the many fabrication steps. This stress needs to be properly managed to prevent the wafer from warping or bowing or even cracking during or after annealing." ('8" Fab Information')*
- ii. *"Given the resounding success and reception of our first-ever public technological demonstration, management is increasingly confident that the company's commercial objectives can commence sometime in Q1 of this year. **Much will depend on the timely receipt and fabrication success of the initial MEMS-GEN-II wafers and chips.**"*
- B. AKP's Appendix 4C Cash Flow Report for the quarter ended 31 December 2023, which stated:
- i. At section 8.6.2 concerning whether further capital will be raised:
- "Yes. The Company is still expecting to receive the placement proceeds of A\$4,316,550 in respect of the placement to Earth Mountain of 308,325 ordinary shares at \$14.00 announced on 24 August 2022. In order to sustain the anticipated level of R&D activities, additional funding will be required within the next 12 months. ..."*

-
- ii. At section 8.6.3 concerning whether the entity can continue its operations and meet its business objectives:
- “Yes. The Company is expecting to receive the placement proceeds of A\$4,316,550 in respect of the placement to Earth Mountain of 308,325 shares at \$14.00 announced on 24 August 2022.”*
- C. Listing Rule 3.1, which requires a listed entity to immediately give ASX any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity’s securities.
- D. The definition of “aware” in Chapter 19 of the Listing Rules, which states that:
- “an entity becomes aware of information if, and as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity” and section 4.4 in Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B “When does an entity become aware of information.”*
- E. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied.
- “3.1A Listing Rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:*
- 3.1A.1 One or more of the following 5 situations applies:*
- It would be a breach of a law to disclose the information;*
 - The information concerns an incomplete proposal or negotiation;*
 - The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*
 - The information is generated for the internal management purposes of the entity; or*
 - The information is a trade secret; and*
- 3.1A.2 The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and*
- 3.1A.3 A reasonable person would not expect the information to be disclosed.”*
- F. ASX’s policy position on the concept of “confidentiality”, which is detailed in section 5.8 of Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. In particular, the Guidance Note states that:
- “Whether information has the quality of being confidential is a question of fact, not one of the intention or desire of the listed entity. Accordingly, even though an entity may consider information to be confidential and its disclosure to be a breach of confidence, if it is in fact disclosed by those who know it, then it is no longer a secret and it ceases to be confidential information for the purposes of this rule.”*

Request for information

Having regard to the above, ASX asks AKP to respond separately to each of the following questions and requests for information:

1. Does AKP consider any of the following to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
 - i. 28 November Information

-
- ii. 24 January Information
 - iii. 8" Fab Information
2. If AKP answered "no" to any part of question 1, please advise the basis for that view for each part, commenting specifically on AKP's representation (reproduced at paragraph A.ii) that much depends on the timely receipt and fabrication success of the wafers and chips.
 3. When did AKP first become aware of the 24 January Information and 8" Fab Information?
 4. If AKP answered "yes" to any part of question 1, please explain why AKP disclosed this information in its quarterly activities report, and not at the time it became aware of the information. In your answer, please explain how AKP considers this to be consistent with its obligations under Listing Rule 3.1 to immediately disclose material information.
 5. ASX notes that AKP's answer to section 8.6.3 of the Appendix 4C Cash Flow Report appears to indicate that receipt of funds under the placement to Earth Mountain is the basis on which AKP expects to continue its operations and meet its business objective for the next two quarters (paragraph B.ii).
 - 5.1 Please confirm whether AKP, by answering section 8.6.3 in this manner, has a reasonable basis to assume that the funds will be received within the next two quarters.
 - 5.2 If the answer to question 5.1 is "yes", please produce any documents or communications relied on by the board of AKP in making this statement (not for market release).
 - 5.3 If the answer to question 5.1 is "no", please provide an answer to section 8.6.3 which does not reference the placement to Earth Mountain, given its apparent irrelevance to AKP for the next two quarters.
 6. Please confirm that AKP is complying with the Listing Rules and, in particular, Listing Rule 3.1.
 7. Please confirm that AKP's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of AKP with delegated authority from the board to respond to ASX on disclosure matters.

When and where to send your response

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **9:00 AM AEDT on Monday, 12 February 2024**. You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, AKP's obligation is to disclose the information 'immediately'. This may require the information to be disclosed before the deadline set out in the previous paragraph and may require AKP to request a trading halt immediately.

Your response should be sent to **ListingsComplianceSydney@asx.com.au**. It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

Trading halt

If you are unable to respond to this letter by the time specified above, you should discuss with us whether it is appropriate to request a trading halt in AKP's securities under Listing Rule 17.1. If you wish a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;

-
- the event you expect to happen that will end the trading halt;
 - that you are not aware of any reason why the trading halt should not be granted; and
 - any other information necessary to inform the market about the trading halt, or that we ask for.

We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted. You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

Suspension

If you are unable to respond to this letter by the time specified above, ASX will likely suspend trading in AKP's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to AKP's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. It should be noted that AKP's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

Release of correspondence between ASX and entity

ASX reserves the right to release all or any part of this letter, your reply and any other related correspondence between us to the market under Listing Rule 18.7A.

Regards

ASX Compliance