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28
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE DRAM ANTITRUST LITIGATION

Master File No. M-02-1486PJH

MDL No. 1486

This Document Relates to:

**THIRD CONSOLIDATED AMENDED
CLASS ACTION COMPLAINT**

ALL ACTIONS

JURY TRIAL DEMANDED

I. NATURE OF THE ACTION

1. This action is brought as a class action on behalf of a plaintiff class (the "Class") consisting of all persons and entities who purchased in the United States Dynamic Random Access Memory chips or modules ("DRAM") directly from the named defendants during the period from approximately April 1, 1999 through at least June 30, 2002 (the "Class Period").

2. Defendants are the leading manufacturers of semiconductor memory products, including DRAM, and control the majority of the memory chip industry which annually generates worldwide revenues in excess of \$20 billion. Plaintiffs allege that during the Class Period, defendants conspired, combined and contracted to fix, raise, maintain, and stabilize the price at which DRAM were sold in the United States. As a result of defendants' unlawful conduct, plaintiffs and the other members of the Class paid artificially inflated prices for DRAM during the Class Period. Such prices exceeded the amount they would have paid if the price for DRAM had been determined by a competitive market.

II. JURISDICTION AND VENUE

3. Plaintiffs bring this action under §§ 4, 12 and 16 of the Clayton Act (15 U.S.C. §§ 15, 22 and 26) for treble damages and injunctive relief, as well as reasonable attorneys' fees and costs with respect to the injuries sustained by plaintiff arising from violations by defendants of the federal antitrust laws, including § 1 of the Sherman Antitrust Act (15 U.S.C. § 1).

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1337(a) and 1367.

5. Venue is proper in this judicial district pursuant to 15 U.S.C. §§ 15 and 22, and 28 U.S.C. § 1391(b) and (c), in that at least one of the defendants resides in this judicial district, is licensed to do business or is doing business in this judicial district.

III. PARTIES

Plaintiffs

6. Plaintiff onShore, Inc. is a Delaware corporation with its principal place of business in Chicago, Illinois. During the Class Period onShore purchased DRAM from defendant Crucial

1 Technology, Inc. ("Crucial"), a wholly owned subsidiary of defendant Micron Technology, Inc.

2 7. Plaintiff Internet Integration, Inc. is a California corporation with its principal place
3 of business in Los Angeles. During the Class Period Internet Integration purchased DRAM from
4 Crucial.

5 8. Plaintiff Kevin Irwin d/b/a Kevin's Computer and Photo is a business entity with its
6 principal place of business in Pittsburgh, Pennsylvania. During the Class Period Kevin Irwin d/b/a
7 Kevin's Computer and Photo purchased DRAM from Crucial.

8 9. Plaintiff PC Doctor, Inc. is a Pennsylvania corporation with its principal place of
9 business in Pittsburgh, Pennsylvania. During the Class Period PC Doctor, Inc. purchased DRAM
10 from Crucial.

11 10. Plaintiff Advanced Technology, Inc. is a corporation which during the class period
12 purchased DRAM from Crucial.

13 11. Plaintiff Network Business Solutions, Inc. is a Maryland corporation with its
14 principal place of business in Baltimore, Maryland. During the Class Period Network Business
15 Solutions, Inc. purchased DRAM from Crucial.

16 12. Plaintiff JEM Electronics Distributors, Inc. is a Pennsylvania corporation. During
17 the Class Period JEM Electronics Distributors, Inc. purchased DRAM from Crucial.

18 13. Plaintiff C3 Information Technology, LLC is a Pennsylvania corporation with its
19 principal place of business in Conshohocken, Pennsylvania. During the Class Period C3
20 Information Technology, LLC purchased DRAM from Crucial.

21 14. Plaintiff Daniel Clement purchased DRAM during the Class Period from Crucial.

22 15. Plaintiff Web Ideals, LLC is a Pennsylvania Limited Liability Corporation with its
23 principal place of business in Doylestown, Pennsylvania. During the Class Period Web Ideals,
24 LLC purchased DRAM from Crucial.

25 16. Plaintiff 5207, Inc. is a corporation with its principal place of business in Skokie,
26 Illinois. During the Class Period 5207, Inc. purchased DRAM from Crucial.
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Defendants

17. Defendant Micron Technology, Inc. is a Delaware corporation with its principal place of business at 8000 South Federal Way, Boise, Idaho 83707. During the time period covered in this complaint, Micron Technology, Inc. designed, developed, manufactured, sold and distributed DRAM throughout the United States. DRAM is Micron's primary semiconductor product.

18. Defendant Micron Semiconductor Products, Inc. is an Idaho corporation located at 8000 South Federal Way, Boise, Idaho and is a wholly owned and controlled subsidiary of defendant Micron Technology, Inc. (collectively referred to as "Micron"). During the time period covered in this complaint, Micron sold DRAM through its Crucial Technology retail sales division to computer manufacturers and other end users throughout the United States.

19. Defendant Crucial Technology, Inc. ("Crucial") is a corporation with its principal place of business in Boise, Idaho. Crucial is a wholly owned subsidiary of Micron which operates the distribution business of Micron Technologies, Inc.

20. Defendant Infineon Technologies AG, a German corporation, maintains its headquarters at St. Martin-Str. 53, 81669, Munich, Germany. During the time period covered in this complaint, Infineon Technologies AG manufactured, sold, and distributed DRAM throughout the world, including the United States.

21. Defendant Infineon Technologies North America Corp. is a Delaware corporation which maintains offices at 1730 North First Street, San Jose, CA 95112. Infineon Technologies North America Corp. is a wholly owned and controlled subsidiary of defendant Infineon Technologies AG (collectively referred to as "Infineon"). During the time period in this complaint, Infineon Technologies North America Corp. sold and distributed DRAM throughout the United States.

22. Defendant Hynix Semiconductor, Inc. maintains its head offices at SAN 136-1, Ami-Ri Bubal-eub, Ichon-si, Kyoungki-do, Korea. During the time covered in this complaint, Hynix Semiconductor, Inc. manufactured, sold and distributed DRAM throughout the world,

1 including the United States.

2 23. Defendant Hynix Semiconductor America, Inc. is a California corporation located
3 at 3101 North First Street, San Jose, California 95134. Hynix Semiconductor America, Inc. is a
4 wholly owned and controlled subsidiary of defendant Hynix Semiconductor, Inc. (collectively
5 referred to as "Hynix"). During the time period covered by this complaint, Hynix Semiconductor
6 America, Inc. sold and distributed DRAM throughout the United States.

7 24. Defendant Samsung Electronics Co., Ltd., a Korean corporation, maintains its
8 executive offices at Samsung Main Building, 250-2 ga, Taepyung-ro Chung-gu, Seoul, Korea.
9 During the time period covered in this complaint, Samsung Electronics Co., Ltd. manufactured,
10 sold and distributed DRAM throughout the world, including the United States.

11 25. Defendant Samsung Semiconductor, Inc. is a California corporation located at 3655
12 North First Street, San Jose, California 95134. Samsung Semiconductor, Inc. is a wholly owned
13 and controlled subsidiary of defendant Samsung Electronics Co., Ltd. (collectively referred to as
14 "Samsung"). During the time period covered by this complaint, Samsung Semiconductor, Inc.
15 sold and distributed DRAM throughout the United States.

16 26. Defendant Mosel-Vitellic Corporation maintains its headquarters at No. 19 Li Hsin
17 Road, Hsinchu Science Based Industrial Park, Hsinchu, Taiwan, R.O.C. During the time period
18 covered by this complaint, Mosel-Vitellic Corporation sold and distributed DRAM throughout the
19 United States.

20 27. Defendant Mosel-Vitellic Corporation (USA) is a California corporation located at
21 3910 North First Street, San Jose, California 95134. Mosel-Vitellic (USA) is a wholly owned and
22 controlled subsidiary of defendant Mosel-Vitellic Corporation. During the time period covered by
23 this complaint, Mosel-Vitellic (USA) sold and distributed DRAM throughout the United States.

24 28. Defendant Nanya Technology Corporation is a Taiwanese corporation which
25 maintains its headquarters at HWA YA Technology Park, 669, Fu Hsing 3rd Rd. Keuishan,
26 Taoyuan, Taiwan, R.O.C. During the time period covered by this complaint, Nanya Technology
27 Corporation sold and distributed DRAM throughout the United States.
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1 29. Defendant Nanya Technology Corporation USA is located at 675 E. Brokaw Road,
2 San Jose, California 95112. Nanya Technology Corporation USA is a branch office of defendant
3 Nanya Technology Corporation. In addition to the sales and marketing office in San Jose, Nanya
4 Technology Corporation operates memory design centers in San Jose and Houston, Texas. During
5 the time period covered by this complaint, Nanya Technology Corporation USA sold and
6 distributed DRAM throughout the United States.

7 30. Defendant Winbond Electronics Corporation (“Winbond”), is headquartered at 4,
8 Creaton Road, 111, Science-Based Industrial park, Hsinchu, Taiwan, R.O.C. During the time
9 period covered in this complaint, Winbond manufactured, sold and distributed DRAM throughout
10 the United States.

11 31. Defendant Winbond Electronics Corporation America, located at 2727 North First
12 Street, San Jose, CA 95134, is a wholly-owned subsidiary of Winbond which sold and distributed
13 DRAM throughout the United States during the time period covered in this complaint.

14 32. Defendant Elpida Memory, Inc. (“Elpida”) maintains its executive offices at
15 Sumitomo Seimei Yaesu Bldg., 3F, 2-1 Yaseu 2-chome, Chuo-ku, Tokyo, Japan. During the time
16 period covered in this complaint, Elpida manufactured, sold and distributed DRAM throughout the
17 United States.

18 33. Defendant Elpida Memory (USA) Inc., located at 2001 Walsh Avenue, Santa Clara,
19 CA 95050, is a wholly owned subsidiary of Elpida which sold and distributed DRAM throughout
20 the United States during the time period covered in this complaint.

21 34. Defendant NEC Electronics America, Inc. (“NEC”) maintains its corporate
22 headquarters at 2880 Scott Boulevard, Santa Clara, California 95050-2554 and its manufacturing
23 plant in Roseville, California. It is a wholly owned subsidiary of NEC Electronics Corporation.
24 During the time period covered in this complaint, NEC manufactured, sold and distributed DRAM
25 throughout the United States.

26 35. Various other individuals, partnerships, corporations, and other business entities,
27 unknown to the plaintiffs, have participated in the violations alleged herein and have performed
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1 acts and made statements in furtherance thereof.

2 36. The acts charged in this Complaint have been done by defendants or were ordered
3 or done by defendants' officers, agents, employees, or representatives, while actively engaged in
4 the management of defendants' affairs.

5 IV. CLASS ACTION ALLEGATIONS

6 37. Plaintiffs bring this action both on behalf of themselves, and as a class action
7 pursuant to Federal Rules of Civil Procedure, Rule 23(a) and (b)(3), on behalf of the following
8 class (the "Class").

9 All individuals and entities who, during the period from approximately
10 April 1, 1999 through at least June 30, 2002 (the "Class Period"),
11 purchased DRAM in the United States directly from the defendants or
12 their subsidiaries. Excluded from the class are defendants and their
13 parents, subsidiaries, affiliates, all governmental entities, and co-
14 conspirators.

15 38. Plaintiffs do not know the exact number of class members because such information
16 is in the exclusive control of defendants. Plaintiffs believe that, due to the nature of the trade and
17 commerce involved, there are most likely hundreds of thousands of class members, geographically
18 dispersed throughout the United States such that joinder of all class members is impracticable.

19 39. Plaintiffs' claims are typical of the claims of the class in that plaintiffs are direct
20 purchasers of DRAM, all class members were damaged by the same wrongful conduct of
21 defendants and their co-conspirators as alleged herein, and the relief sought is common to the
22 class.

23 40. Numerous questions of law or fact arise from defendants' anticompetitive conduct
24 that is common to the class. Among the questions of law or fact common to the class are:

25 a. whether defendants engaged in a contract, combination or conspiracy among
26 themselves to fix, maintain or stabilize the prices of, or allocate the market for, DRAM sold in the
27 United States;
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1 b. whether the conduct of defendants caused prices of DRAM to be artificially
2 inflated to non-competitive levels; and

3 c. whether plaintiff and other members of the class were injured by the
4 conduct of defendants and, if so, the appropriate class-wide measure of damages and appropriate
5 injunctive relief.

6 41. These common questions of law or fact are common to the class, and predominate
7 over any other questions affecting only individual class members.

8 42. Plaintiffs will fairly and adequately represent the interests of the class in that
9 plaintiffs are typical direct purchasers of DRAM and have no conflicts with any other member of
10 the class. Furthermore, plaintiffs have retained competent counsel experienced in antitrust and
11 class action litigation.

12 43. A class action is superior to the alternatives, if any, for the fair and efficient
13 adjudication of this controversy.

14 44. Prosecution of separate actions by individual class members would create the risk
15 of inconsistent or varying adjudications, establishing incompatible standards of conduct for the
16 defendants.

17 45. Injunctive relief is appropriate as to the class as a whole because defendants have
18 acted or refused to act on grounds generally applicable to the class.

19 46. Plaintiffs reserve the right to expand, modify or alter the class definition in response
20 to information learned during discovery.

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22 **V. TRADE AND COMMERCE**

23 47. During the Class Period, defendants sold and shipped substantial quantities of
24 DRAM in a continuous and uninterrupted flow of interstate and international commerce to
25 customers located in states other than the states in which defendants are located.

26 48. The business activities of defendants that are the subject of this Complaint were
27 within the flow of, and substantially affected, interstate trade and commerce.

28 49. During the Class Period, defendants, amongst whom are the four largest DRAM

1 producers in the world, have most of the DRAM sales in the global market.

2 VI. STATEMENT OF FACTS

3 A. The DRAM Industry

4 50. DRAM are high density, low-cost-per bit, random access memory components that
5 store digital information and provide high-speed storage and retrieval of data used in personal
6 computers, printers, digital cameras, wireless telephones, and other electronic devices as a storage
7 module to hold data as it is processed. DRAM is the most common kind of random access
8 memory chip sold both in new computers and computer upgrades in the United States. DRAM is
9 sold in individual chips or modules with several chips attached to the module.

10 51. DRAM revenue exceeds \$20 billion a year. The world's top four makers of
11 DRAM, defendants herein, control roughly 70% of the market; the top six manufacturers,
12 defendants herein, control 96% of the market. As of 2000, Samsung was the top DRAM
13 manufacturer with 23% of the market share, followed by Micron with 21%, Hynix with 19% and
14 Toshiba with 7%. At the end of 2001, Micron acquired Toshiba's DRAM production, further
15 consolidated the industry and the dominant market position exercised by defendants. Thereafter,
16 Infineon became the fourth largest DRAM maker.

17 B. DRAM Prices Fall Steadily Prior to the Class Period

18 52. At certain times beginning at least as early as 1999, the prices of DRAM declined
19 dramatically.

20 53. On information and belief, as a result of these price declines, each of the defendants
21 had experienced material decreases in selling prices, and, at times, were selling DRAM at or below
22 manufacturing costs. All of the defendants were facing an uncertain future if prices continued to
23 decline with potential bankruptcy as a possibility for some, and a continuing erosion of profits for
24 others.

25 C. Price Fixing and the Rise in DRAM Prices During the Class Period

26 54. In view of the economic conditions of the industry, the defendants entered into
27 agreements designed to combat the price decline in the industry. These agreements had the effect
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1 both of artificially limiting the rate of DRAM price declines, and, at other times, of artificially
2 increasing the DRAM price.

3 55. For example, sometime in the Spring or early summer of 1999, and again sometime
4 in the fall of 2001, realizing the economic trends of the industry, defendants agreed to reduce
5 supply in order to artificially raise prices. As part of their agreement, each defendant agreed to cut
6 production so that, as supplies were restrained by their agreement, prices for DRAM would
7 increase. Thus, throughout the Class Period, Defendants entered into agreements or
8 understandings regarding the sale and marketing of DRAM, the purpose of which was to raise, fix
9 and stabilize the prices for DRAM.

10 56. A news article on the DRAM industry reported that defendant Mosel Vitelic and
11 other DRAM producers had met to discuss measures that could be taken to halt "the downward
12 spiral of DRAM prices." Defendant Mosel Vitelic's Vice President Chang indicated in September
13 2001 that "a basis for understanding had been reached" between chip makers to "trim some
14 production starting September." Chang stated that all DRAM makers would have to agree for the
15 plan to have the desired effect of raising prices.

16 57. On or about November 2001, prices for DRAM rose dramatically, and by February
17 2002, prices had risen as high as \$4.50.

18 58. It has been reported in the press that an officer of DRAM manufacturer Mosel-
19 Vitelic admitted that price fixing meetings occurred, and that an agreement had been reached
20 between the major DRAM producers to push prices up by reducing supply. According to press
21 reports, Hynix and Samsung executives visited both Mosel-Vitellic and Nanya Technology
22 executives to discuss these agreements.

23 59. The ability of DRAM makers to fix the price of their product was confirmed by
24 defendant Mosel Vitelic Vice President Thomas Chang's statements reported in the Detroit News
25 and the Taipei Times on May 16 and May 17, 2002, respectively. According to the reports, Mosel
26 Vitelic Inc., Taiwan's third-largest memory-chip maker, said it agreed with rivals to restrict spot
27 market sales, aiming to boost chip prices." The reports indicated that DRAM makers were
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1 attempting to “encourage a price of \$3” for DRAM chips. Chang stated “You don’t need to have a
2 meeting, you just need to have a phone call.” The reports indicated that there was no formal
3 meeting of DRAM makers because according to Chang, “Everybody knows each other. We just
4 said try not to sell below \$3.”

5 **VII. VIOLATIONS ALLEGED**

6 60. Plaintiffs incorporate by reference as if fully set forth, the preceding allegations of
7 this Complaint.

8 61. Beginning in or about April 1, 1999, the exact date being unknown to plaintiffs,
9 defendants, by and through their officers, directors, employees, agents, or other representatives,
10 entered in a continuing contract, combination or conspiracy to unreasonably restrain trade and
11 commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

12 62. Defendants, by their unlawful conspiracy, artificially raised, inflated and
13 maintained the market price of DRAM as herein alleged.

14 63. The contract, combination or conspiracy consisted of a continuing agreement,
15 understanding and concert of action among defendants and their co-conspirators, the substantial
16 terms of which were to fix, raise, maintain and stabilize the prices of, and/or allocate the market
17 for, DRAM they sold in the United States.

18 64. Upon information and belief, for the purpose of formulating and effectuating their
19 contract, combination or conspiracy, defendants and their co-conspirators did those things they
20 contracted, combined or conspired to do, including:

21 a. participating in meetings and conversations to discuss the prices of and/or
22 allocate the market for DRAM;

23 b. agreeing to manipulate prices and supply so as to boost sagging DRAM
24 sales in a manner that deprived direct purchasers of free and open competition;

25 c. issuing price announcements and price quotations in accordance with the
26 agreements reached; and

27 d. selling DRAM to customers in the United States at non-competitive prices.
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1 65. As a direct result of the unlawful conduct of defendants and their co-conspirators in
2 furtherance of their continuing contract, combination or conspiracy, plaintiffs and other members
3 of the class have been injured in their business and property in that they have paid more for
4 DRAM than they would have paid in the absence of defendants' price fixing.

5 66. On June 18, 2002, defendant Micron announced it had been cooperating with the
6 Department of Justice's antitrust investigation of the DRAM industry.

7 67. By June 20, 2002, defendants Samsung, Hynix and Infineon confirmed that they
8 had received subpoenas from a grand jury which has been publicly reported as having been led in
9 this District.

10 68. On September 12, 2003, defendants Elpida Memory and NEC Electronics America
11 announced that they had received subpoenas from the grand jury investigating manipulation of the
12 market for DRAM.

13 69. In addition, analysts have indicated that the Department of Justice may be
14 investigating DRAM producers, including defendants, to determine whether memory producers
15 combined to lower prices in order to drive smaller, weaker rivals out of the market. The result of
16 this illegal anticompetitive activity is to limit the number of DRAM producers and stifle future
17 competition and result in irreversible price increases.

18 70. Published reports indicate that the Department of Justice's investigation is broad in
19 scope and includes numerous DRAM makers including all of the defendants herein.

20 71. On or about September 14, 2004, defendant Infineon Technologies AG entered into
21 a plea agreement with the government pursuant to which it agreed to plead guilty to conspiring to
22 fix prices in the DRAM market from July 1, 1999 through June 15, 2002.

23 72. On or about April 20, 2005, defendant Hynix Semiconductor Inc. entered into a
24 plea agreement with the government pursuant to which it agreed to plead guilty to conspiring to fix
25 prices in the DRAM market from April 1, 1999 through June 15, 2002.
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27 VIII. EFFECTS

28 73. The above combination and conspiracy has had the following effects, among others:

1 a. price competition in the sale of DRAM by defendants and their co-
2 conspirators has been restrained, suppressed and eliminated throughout the United States;

3 b. prices for DRAM sold by defendants have been raised, fixed, maintained
4 and stabilized at artificially high and noncompetitive levels throughout the United States; and

5 c. direct purchasers of DRAM from defendants have been deprived of the
6 benefit of free and open competition in the purchase of DRAM.

7 74. As a direct and proximate result of the unlawful conduct of defendants, plaintiffs
8 and other members of the class have been injured in their business and property in that they paid
9 more for DRAM than they otherwise would have paid in the absence of the unlawful conduct of
10 defendants.

11 IX. FRAUDULENT CONCEALMENT

12 75. Plaintiffs had no knowledge of the combination and conspiracy alleged herein, or of
13 any facts that might have led to the discovery thereof in the exercise of reasonable diligence, prior
14 to June, 2002 when defendants Micron, Samsung, Hynix and Infineon announced that the
15 Department of Justice was investigating the DRAM industry.

16 76. Plaintiffs could not have discovered the existence of the combination and
17 conspiracy alleged herein at an earlier date by the exercise of reasonable due diligence because of
18 the deceptive practices and techniques of secrecy employed by the defendants and their co-
19 conspirators to avoid detection and affirmatively conceal such violations including, without
20 limitation, falsely attributing price increases to increased demand, shortages in supply, increased
21 manufacturing costs, increased prices of labor and of raw materials, and/or insufficient production
22 capacity. Defendants and their co-conspirators also falsely informed their customers that they
23 were unable to sell their products at a lower price due to increased manufacturing costs, increased
24 prices of labor and of raw materials, and insufficient production capacity.

25 77. These false statements included, without limitation:

26 a. in an article in Electronic News on September 13, 1999, defendants
27 attributed DRAM price increases to increased demand due to strong sales of low PCs incorporating
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1 large quantities of DRAM. Avo Kanadjian, vice president of marketing of defendant Samsung
2 Semiconductor, Inc. said: "Because we see the value PC and free PCs entering the market at
3 extraordinary numbers, DRAM oversupply has silently gone into a shortage." Chee-Wai Ho,
4 director of product marketing for memory products at defendant Infineon Technologies AG
5 agreed.

6 b. in an interview on December 4, 2001, published on Simmtester.com, Steve
7 Appleton, chief executive officer of defendant Micron Technology, Inc., was asked why prices had
8 recently increased sharply and suddenly. He answered:

9 I have no idea. There clearly was a belated increase in demand as the seasonal
10 rebound we had expected two-and-a-half months earlier finally kicked in. And,
11 clearly the Japanese are cutting back their DRAM production. Even Hynix, which
12 is so unpredictable, cut some production by temporarily closing its Eugene, Ore.,
13 fab. When it was running at 40K wafer capacity a month, that fab alone probably
14 had about 2.5% of the world's DRAM production.

15 c. in a press release issued on April 15, 2002, Hynix cited increased demand in
16 the DRAM market as the reason for an increase in revenue.

17 78. Plaintiffs had no reason to disbelieve these statements which on their face appeared
18 to be reasonable explanations for the pricing of DRAM. Furthermore, most of the explanations
19 provided by defendants involved non-public and/or proprietary information completely in
20 defendants' control such that plaintiffs and members of the class could not verify their accuracy.
21 Defendants' purported reasons for the price increases of DRAM were materially false and
22 misleading and were made for the purpose of concealing defendants' anti-competitive scheme as
23 alleged herein. In truth, at all relevant times, the price of DRAM was artificially inflated and
24 maintained as a direct result of the defendants' anti-competitive scheme, the operation of which
25 was a substantial (but undisclosed) factor in the pricing of DRAM during the class period.

26 79. As a result of the fraudulent concealment of the conspiracy, Plaintiffs assert the
27 tolling of the applicable statute of limitations affecting the causes of action by Plaintiffs and the
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1 member of the class.

2 **X. DAMAGES**

3 80. During the Class Period, plaintiffs and the other members of the class purchased
4 DRAM directly from defendants, or their subsidiaries, agents, and/or affiliates, and, by reason of
5 the antitrust violations herein alleged, paid more for such products than they would have paid in
6 the absence of such antitrust violations. As a result, plaintiffs and the other members of the class
7 have sustained damages to their business and property in an amount to be determined at trial.

8 **XI. PRAYER FOR RELIEF**

9 WHEREFORE, plaintiff demands judgment against defendants as follows:

10 A. A declaration that this action is a proper class action under Federal Rules of Civil
11 Procedure, Rule 23(b)(3) on behalf of the class as defined herein, and an Order directing that
12 reasonable notice of this action, as provided by Federal Rules of Civil Procedure, Rule 23(c)(2), be
13 given to each member of the class;

14 B. A declaration that the unlawful combination and conspiracy alleged herein is an
15 unreasonable restraint of trade of commerce in violation of Section 1 of the Sherman Act, 15
16 U.S.C. § 1;

17 C. An injunction enjoining, preliminarily and permanently, defendants from
18 continuing the unlawful combination and conspiracy alleged herein;

19 D. An award to plaintiffs and each member of the class damages, as provided by law,
20 and joint and several judgments in favor of plaintiffs and each member of the class against
21 defendants, and each of them, in an amount to be trebled in accordance with the antitrust laws;

22 E. An award to plaintiffs and the class for the costs of this suit (including expert fees),
23 and reasonable attorneys' fees, as provided by law; and

24 F. An award for such other and further relief as the nature of this case may require or
25 as this court deems just, equitable and proper.
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JURY DEMAND

Plaintiffs demand a jury trial, pursuant to Federal Rules of Civil Procedure, Rule 38(b), of all triable issues.

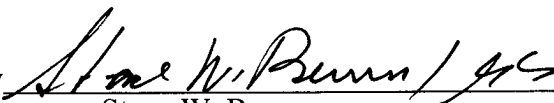
DATED: June 9, 2005.

SAVERI & SAVERI, INC.

By 
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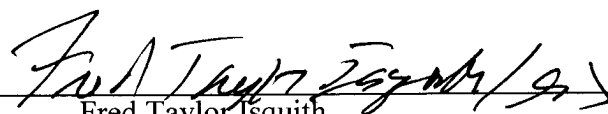
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CERTIFICATE OF SERVICE

I, Mary McGuire, declare under penalty of perjury that the foregoing is true and correct:

I am over the age of 18 years and not a party to the above-entitled cause. I am employed in the County of San Francisco; my business address is One Eleven Pine Street, Suite 1700, San Francisco, California 94111.

On June 30, 2005, I caused to be served a true and correct copy of the following document(s):

THIRD CONSOLIDATED AMENDED CLASS ACTION COMPLAINT

by transmission to Electronic Case Filing system for the Northern District of California for service on all counsel of record by electronic service pursuant to Order of the Court.

Executed in San Francisco, California this 30th day of June, 2005.


Mary McGuire