

1 Jerome A. Murphy (*pro hac vice*)
 Kent A. Gardiner (*pro hac vice*)
 2 Matthew J. McBurney (*pro hac vice*)
 CROWELL & MORING LLP
 3 1001 Pennsylvania Avenue, N.W.
 Washington, D.C. 20004
 4 Telephone: 202-624-2500
 Facsimile: 202-628-5116
 5 E-mail: jmurphy@crowell.com
 kgardiner@crowell.com
 6 mmcburney@crowell.com

7 Suzanne E. Rode (CA Bar No. 253830)
 CROWELL & MORING LLP
 8 275 Battery Street, 23rd Floor
 San Francisco, CA 94111
 9 Telephone: 415-986-2800
 Facsimile: 415-986-2827
 10 E-mail: srode@crowell.com

11 *Counsel for Plaintiff Oracle America, Inc.*

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 OAKLAND DIVISION

15 ORACLE AMERICA, INC.,
 16 Plaintiff,

17 v.

18 MICRON TECHNOLOGY, INC. and
 19 MICRON SEMICONDUCTOR PRODUCTS,
 20 INC.,

21 Defendants.

Case No. 10-cv-04340 PJH

**DECLARATION OF JEROME A.
 MURPHY IN SUPPORT OF PLAINTIFF
 ORACLE AMERICA, INC.'S MOTION
 TO STRIKE THE TWENTY-FIRST
 AFFIRMATIVE DEFENSE ASSERTED
 IN DEFENDANTS' AMENDED ANSWER**

22
 23
 24
 25
 26
 27
 28

1 I, Jerome A. Murphy, declare as follows:

2 1. I am an attorney with the law firm of Crowell & Moring LLP and I am one of the
3 attorneys of record for Plaintiff Oracle America, Inc. (“Oracle”) in this matter. I submit this
4 declaration in support of Oracle’s Motion to Strike the Twenty-First Affirmative Defense
5 Asserted in Defendants’ Amended Answer. I have personal knowledge of the facts set forth in
6 this declaration and, if called to testify as a witness, could and would do so under oath.

7 2. Attached hereto as **Exhibit 1** is a true and correct copy of the Amnesty Agreement
8 executed between defendant Micron Technology, Inc. and the Antitrust Division of the United
9 States Department of Justice on October 25, 2002.

10 3. Attached hereto as **Exhibit 2** is a true and correct copy of relevant excerpts of
11 Volume 150 of the Congressional Record, which contain a transcription of the floor debate in
12 both the Senate and House of Representatives regarding the Antitrust Criminal Penalty
13 Enhancement and Reform Act of 2004 (“ACPERA”).

14

15 I declare under penalty of perjury that the foregoing is true and correct. Executed this 9th
16 day of May, 2011 at Washington, DC.

17

18

/s/Jerome A. Murphy
Jerome A. Murphy

19

20

21

22

23

24

25

26

27

28