

1 NIAL E. LYNCH (State Bar No. 157959)  
NATHANAEL M. COUSINS (State Bar No. 177944)  
2 MAY Y. LEE (State Bar No. 209366)  
BRIGID S. BIERMANN (State Bar No. 231705)  
3 CHARLES P. REICHMANN (State Bar No. 206699)  
Antitrust Division  
4 U.S. Department of Justice  
450 Golden Gate Avenue  
5 Box 36046, Room 10-0101  
San Francisco, CA 94102  
6 Telephone: (415) 436-6660

7 Attorneys for the United States

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA ) No. CR 06 0692 PJH  
12 )  
13 v. ) **INDICTMENT**  
14 )  
14 IL UNG KIM; )  
YOUNG BAE RHA; and )  
15 GARY SWANSON, ) VIOLATION:  
16 ) Title 15, United States Code,  
Defendants. ) Section 1 (Price Fixing)  
17 ) San Francisco Venue

18 The Grand Jury charges that:

19 I.

20 DESCRIPTION OF THE OFFENSE

21 1. The following individuals are hereby indicted and made defendants on the charge  
22 stated below:

- 23 (a) IL UNG KIM;
- 24 (b) YOUNG BAE RHA; and
- 25 (c) GARY SWANSON.

26 2. From on or about April 1, 1999, until on or about June 15, 2002, the exact dates

1 being unknown to the Grand Jury, the defendants and coconspirators, Elpida Memory, Inc.,  
2 Hynix Semiconductor Inc., Infineon Technologies AG, Samsung Electronics Company, Ltd.,  
3 Samsung Semiconductor Inc., and other corporations and individuals, entered into and engaged  
4 in a combination and conspiracy in the United States and elsewhere to suppress and eliminate  
5 competition by fixing the prices of Dynamic Random Access Memory (“DRAM”) to be sold to  
6 certain original equipment manufacturers of personal computers and servers (“OEMs”). The  
7 defendants joined and participated in the conspiracy at various periods of time from on or about  
8 April 1, 2001, until on or about June 15, 2002 (“the period covered by this Indictment”), the  
9 exact dates being unknown to the Grand Jury. The combination and conspiracy engaged in by  
10 the defendants, their corporate employers, and other coconspirators was in unreasonable restraint  
11 of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15  
12 U.S.C. § 1).

13 3. The charged combination and conspiracy consisted of a continuing agreement,  
14 understanding, and concert of action among the defendants, their corporate employers, and other  
15 coconspirators, the substantial terms of which were to agree to fix the prices for DRAM to be  
16 sold to certain OEMs.

## 17 II.

### 18 MEANS AND METHODS OF THE CONSPIRACY

19 4. For the purpose of forming and carrying out the charged combination and  
20 conspiracy, the defendants, their corporate employers, and other coconspirators did those things  
21 that they combined and conspired to do, including, among other things:

- 22 (a) attended meetings and participated in telephone conversations in the  
23 United States and elsewhere to discuss the prices of DRAM to be sold to  
24 certain OEMs;  
25 (b) agreed during those meetings and telephone conversations to charge prices  
26 of DRAM at certain levels to be sold to certain OEMs;

- 1 (c) exchanged information on sales of DRAM to certain OEM customers, for  
2 the purpose of monitoring and enforcing adherence to the agreed-upon  
3 prices;
- 4 (d) agreed during those meetings and telephone conversations to raise and  
5 maintain prices of DRAM to be sold to certain OEMs;
- 6 (e) agreed during those meetings and telephone discussions to rig the online  
7 auction, sponsored by Compaq Computer Corporation on November 29,  
8 2001, by not submitting a bid in the auction, or by submitting intentionally  
9 high prices on the bids in the auction;
- 10 (f) authorized, ordered and consented to the participation of subordinate  
11 employees in the conspiracy;
- 12 (g) issued price quotations in accordance with the agreements reached;
- 13 (h) accepted payment for the supply of DRAM sold at collusive,  
14 noncompetitive prices to certain OEM customers in the United States and  
15 elsewhere; and
- 16 (i) concealed the conspiracy and conspiratorial contacts through various  
17 means.

18 III.

19 DEFENDANTS AND COCONSPIRATORS

20 5. Defendant IL UNG KIM is a resident and citizen of the Republic of Korea. During  
21 the period covered by this Indictment, IL UNG KIM was Vice President, Marketing for the  
22 Memory Division of Samsung Electronics, Ltd. (“Samsung”). During the period covered by this  
23 Indictment, Samsung was a Korean company engaged in the business of producing and selling  
24 DRAM to customers in the United States and elsewhere.

25 6. Defendant YOUNG BAE RHA is a resident and citizen of the Republic of Korea.  
26 During certain portions of the period covered by this Indictment YOUNG BAE RHA was Vice

1 President of Sales and Marketing for the Memory Division of Samsung.

2 7. Defendant GARY SWANSON is a resident and citizen of the United States.  
3 During the period covered by this Indictment GARY SWANSON was Senior Vice President,  
4 Memory Sales and Marketing for Hynix Semiconductor America Inc. (“Hynix America”), the  
5 United States’ based subsidiary of Hynix Semiconductor, Inc. (“Hynix”). During the period  
6 covered by this Indictment, Hynix was a Korean company and Hynix America was a United  
7 States company engaged in the business of producing and selling DRAM to customers in the  
8 United States and elsewhere.

9 8. Various corporations and individuals, not made defendants in this Indictment,  
10 participated as coconspirators in the offense charged in this Indictment and performed acts and  
11 made statements in furtherance of it.

12 9. Whenever in this Indictment reference is made to any act, deed, or transaction of  
13 any corporation, the allegation means that the corporation engaged in the act, deed, or transaction  
14 by or through its officers, directors, employees, agents, or other representatives while they were  
15 actively engaged in the management, direction, control, or transaction of its business or affairs.

16 III.

17 TRADE AND COMMERCE

18 10. DRAM is the most commonly used semiconductor memory product. DRAM  
19 provides high-speed storage and retrieval of electronic information in personal computers, servers  
20 and other devices. All references to DRAM in this Indictment include Synchronous Dynamic  
21 Random Access Memory (“SDRAM”) and Double Data Rate Dynamic Random Access Memory  
22 (“DDR”) semiconductor memory devices and modules.

23 11. During the period covered by this Indictment, the defendants, their corporate  
24 employers, and coconspirators sold and distributed DRAM in a continuous and uninterrupted  
25 flow of interstate and foreign trade and commerce to customers located in states or countries other  
26 than the states or countries in which the defendants, their corporate employers, and coconspirators

1 produced DRAM. The OEMs that were affected by the conspiracy to suppress and eliminate  
2 competition include: Dell Inc., Compaq Computer Corporation, Hewlett-Packard Company,  
3 Apple Computer, Inc., International Business Machines Corporation, and Gateway, Inc.

4 12. The business activities of the defendants, their corporate employers, and  
5 coconspirators that are the subject of this Indictment were within the flow of, and substantially  
6 affected, interstate and foreign trade and commerce.

7 IV.

8 JURISDICTION AND VENUE

9 13. The combination and conspiracy charged in this Indictment was carried out, in  
10 part, in the Northern District of California, within the five years preceding the filing of this  
11 Indictment.

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1 ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

2 DATED:

A TRUE BILL

3 J.B. McDonald, Acting  
4 Thomas O. Barnett  
Assistant Attorney General

/s/ Foreperson  
FOREPERSON

5  
6 /s/  
7 Scott D. Hammond  
Deputy Assistant Attorney General

/s/  
Phillip H. Warren  
Chief, San Francisco Office

8 /s/  
9 Marc Siegel  
Director of Criminal Enforcement  
10 United States Department of Justice  
11 Antitrust Division

/s/  
Niall E. Lynch, Assistant Chief  
Nathanael M. Cousins  
May Y. Lee  
Brigid S. Biermann  
Charles P. Reichmann  
Attorneys  
U.S. Department of Justice  
Antitrust Division  
450 Golden Gate Ave.  
Box 36046, Room 10-0101  
San Francisco, CA 94102  
(415) 436-6660

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13 Mark Kortoski for  
14 Kevin V. Ryan  
United States Attorney  
Northern District of California