



Department of Justice

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THREE EXECUTIVES INDICTED FOR THEIR ROLES IN THE DRAM PRICE-FIXING & BID-RIGGING CONSPIRACY

Two Korean Executives and One U.S. Executive Charged in Global Price-Fixing & Bid-Rigging Scheme

WASHINGTON — A federal grand jury in San Francisco today returned an indictment against two executives from Samsung Electronics Ltd. (Samsung) and one executive from Hynix Semiconductor America Inc. (Hynix America) for their participation in a global conspiracy to fix DRAM prices, the Department of Justice announced.

Including today's charge, four companies and 16 individuals have been charged and fines totaling more than \$731 million have resulted from the Department's ongoing antitrust investigation into the DRAM industry. The \$731 million in criminal fines is the second highest total obtained by the Department of Justice in a criminal antitrust investigation into a specific industry.

The indictment, filed today in the U.S. District Court in San Francisco, charged that Il Ung Kim, Young Bae Rha, and Gary Swanson participated with co-conspirators in the conspiracy from on or about April 1, 2001, until on or about June 15, 2002. At the time of the conspiracy, Kim was vice president of marketing for the memory division at Samsung. Rha was vice president of sales and marketing for the memory division at Samsung. Both Kim and Rha are citizens and residents of Korea. At the time of the conspiracy, Swanson was senior vice president of memory sales and marketing for Hynix America, the U.S.-based subsidiary of Hynix Semiconductor Inc. (Hynix), which is headquartered in Korea. Swanson is a resident and citizen of the United States.

"The Antitrust Division will vigorously pursue individuals who engage in criminal cartel conspiracies," said Thomas O. Barnett, Assistant Attorney General in charge of the Department of Justice's Antitrust Division. "Criminal cartel enforcement is the Division's top priority and both companies and individuals must comply with the antitrust laws."

DRAM is the most commonly used semiconductor memory product, providing high-speed storage and retrieval of electronic information for a wide variety of computer, telecommunication and consumer electronic products. DRAM is used in personal computers, laptops, workstations, servers, printers, hard disk drives, personal digital assistants (PDAs), modems, mobile phones, telecommunication hubs and routers, digital cameras, video recorders

and TVs, digital set-top boxes, game consoles and digital music players. There were approximately \$7.7 billion in DRAM sales in the United States alone in 2004.

The indictment charges that Kim, Rha, Swanson, and their co-conspirators carried out the conspiracy in a variety of ways, including:

- Attending meetings and participating in telephone conversations in the U.S. and elsewhere to discuss the prices of DRAM to be sold to certain original equipment manufacturers (OEMs);
- Agreeing during those meetings and telephone conversations to charge prices of DRAM at certain levels to be sold to certain OEMs;
- Exchanging information on sales of DRAM to certain OEM customers, for the purpose of monitoring and enforcing adherence to the agreed-upon prices;
- Agreeing during those meetings and telephone conversations to raise and maintain prices of DRAM to be sold to certain OEMs;
- Agreeing during those meetings and telephone discussions to rig the online auction, sponsored by Compaq Computer Corporation on Nov. 29, 2001, by not submitting a bid in the auction, or by submitting intentionally high prices on the bids in the auction;
- Authorizing, ordering, and consenting to the participation of subordinate employees in the conspiracy;
- Issuing price quotations in accordance with the agreements reached;
- Accepting payment for the supply of DRAM sold at collusive, noncompetitive prices to certain OEM customers in the United States and elsewhere; and
- Concealing the conspiracy and conspiratorial contacts through various means.

Kim, Rha, and Swanson are each charged with participating in the conspiracy to suppress competition in violation of the Sherman Act. The maximum penalty for the conviction of a Sherman Act violation occurring before June 22, 2004, is three years imprisonment and a fine of \$350,000 for individuals. The maximum fines may be increased, however, to twice the gain derived from the crime or twice the loss suffered by the victims if either of those amounts is greater than the Sherman Act maximum fines.

Three foreign-based Samsung executives, Sun Woo Lee, Yeongho Kang, and Young Woo Lee, pleaded guilty to the DRAM price-fixing conspiracy in March and August 2006. The Samsung employees agreed to serve prison terms ranging from seven to eight months and to each pay a \$250,000 fine. In September 2006, Thomas Quinn, the fourth Samsung executive charged, agreed to plead guilty to the DRAM price-fixing conspiracy, and charges have been filed. Under a plea agreement, which must be approved by the court, Quinn has agreed to serve eight months in prison and to pay a criminal fine of \$250,000.

In addition, four Hynix Semiconductor Inc. executives, Dae Soo Kim, Chae Kyun Chung, Kun Chul Suh, and Choon Yub Choi, were charged with participating in the DRAM price-fixing conspiracy and agreed to plead guilty and serve jail terms ranging from five to eight months and to each pay a \$250,000 fine. In December 2004, four executives of Infineon Technologies AG –

T. Rudd Corwin, Peter Schaefer, Gunter Hefner, and Heinrich Florian – pleaded guilty to the DRAM price-fixing conspiracy. The Infineon employees served jail terms ranging from four to six months and each paid a \$250,000 fine.

Also, in December 2003, the Department charged Alfred Censullo, a regional sales manager for Micron Technology Inc., with obstruction of justice. Censullo pleaded guilty and admitted to having withheld and altered documents responsive to a grand jury subpoena served on Micron. Censullo was sentenced to serve six months of home detention.

In total, four companies have been charged with price-fixing in the DRAM investigation. Samsung pleaded guilty to the price fixing conspiracy and was sentenced to pay a \$300 million criminal fine in November 2005. Hynix, the world's second largest DRAM manufacturer, pleaded guilty and was sentenced to pay a \$185 million criminal fine in May 2005. Japanese manufacturer Elpida Memory pleaded guilty and was sentenced to pay an \$84 million fine in March 2006. German manufacturer Infineon pleaded guilty and was sentenced to pay a \$160 million criminal fine in October 2004.

Today's charge is the result of an ongoing investigation being conducted by the Antitrust Division's San Francisco Office and the Federal Bureau of Investigation in San Francisco.

Anyone with information concerning price fixing in the DRAM industry should contact the San Francisco Office of the Antitrust Division at (415) 436-6660 or the San Francisco Division of the FBI at (415) 553-7400. Case filings can be viewed on the Antitrust Division's web site, <http://www.usdoj.gov/atr/>.

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