

# **Exhibit C**

Letter from Jerome A. Murphy to Joel S. Sanders (Sept. 12, 2006)

09/12/2006 16:43 FAX 202 628 5116

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1001 Pennsylvania Avenue, NW, Washington, DC 20004-2595 • p202 624-2500 • f202 628-5116

Jerome A. Murphy  
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jmurphy@crowell.com

September 12, 2006

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101810.0000001

VIA FACSIMILE AND U.S. MAIL

Joel S. Sanders, Esq.  
Gibson, Dunn & Crutcher LLP  
One Montgomery Street, Suite 2600  
San Francisco, CA 94101-4505

Re: Demand for Cooperation

Dear Mr. Sanders:

Crowell & Moring filed suit on behalf of Sun Microsystems, Inc. ("Sun") on March 2, 2006, and on April 14, 2006, we also filed suit on behalf of Unisys Corporation ("Unisys"), in the United States District Court for the Northern District of California, against a number of DRAM suppliers. Micron executed tolling agreements with both Sun and Unisys, and is not named as a defendant in either case. A copy of the recently consolidated complaint is attached as Attachment A.

Our clients seek to recover damages resulting from a long-standing conspiracy to fix and maintain prices of DRAM that resulted in consumers, including Sun and Unisys, paying artificially high prices for those items.

We understand that Micron has sought corporate amnesty under the Department of Justice Antitrust Division Corporate Leniency Program. We further understand that Micron has entered into a conditional leniency agreement and is seeking to take advantage of reduced penalties that may be available under § 212 of the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 (the "Act"). As you know, in conjunction with Micron's leniency agreement, to receive the benefits of the Act Micron is required to cooperate fully with Sun and Unisys in a variety of ways, including providing a full account to our clients of all facts known that are potentially relevant to the civil action; furnishing all documents or other items potentially relevant to the civil action that are in its possession, custody, or control; and making individuals such as officers, directors and employees available

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for interviews, depositions, and testimonies in connection with the civil action. See Act at § 213(b)(1), (2) and (3).

Micron's full cooperation must be timely. The legislative history of the Act clarifies that with respect to timeliness, cooperation should be provided to our clients as they prepare and begin prosecuting their civil suit, so that the cooperation can be meaningfully used to assist in the pursuit of their claims. See H.R. 1086, 108th Cong., 150 CONG. REC. S3610-02, at S3614 (April 2, 2004) ("the legislation requires the amnesty applicant to provide full cooperation to the victims *as they prepare ... their civil lawsuit.*" (emphasis added)). The enforceability of Micron's leniency agreement is contingent upon Micron's provision of "satisfactory cooperation" in a *timely* manner to Sun and Unisys. See Act at § 213(c).

In view of the foregoing, Sun and Unisys formally request that Micron produce within 60 days the following information, most of which we believe Micron has already gathered:

- Sales data showing global sales of DRAM (as that term is defined in Attachment A) to Sun and Unisys, for the years 1996 through 2004, inclusive.
- Copies of all documents or data (in electronic format, to the extent available), that have been provided to the Antitrust Division ("the Division") of the Department of Justice, in relation to the Division's investigation of Micron's conduct during the 1994 through 2004 time period, which resulted in the Division's leniency agreement with Micron, as well as a January 2004 guilty plea of obstruction of justice in violation of 18 U.S.C. § 1503 from Micron Regional Sales Manager Alfred P. Censullo.
- Copies of all documents or data (in electronic format, to the extent available), that Micron produced pursuant to a June 17, 2002 grand jury subpoena, that called for, among other things, production of documents relating to any contacts and communications between DRAM competitors relating to the pricing and sale of DRAM.
- Copies of all documents or data (again, in electronic format if available), including but not limited to e-mails, telephone and travel records, notes (electronic and/or handwritten) of conversations or meetings, and calendars, kept by any employees affiliated with Micron, reflecting or relating to any communications with any of Micron's competitors in the global DRAM market (e.g., Hynix Semiconductor, Inc., Infineon Technologies A.G., Nanya Technology Corporation, Mosel Vitelic, Inc., Winbond Electronics Corporation and/or Mitsubishi (and their respective employees)), regarding DRAM

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customers, DRAM production, DRAM supply, or DRAM pricing, during the 1996 through 2004 time period, inclusive.

- Copies of all documents or data (in electronic format), including but not limited to e-mails, telephone and travel records, notes (electronic and/or handwritten) of conversations or meetings, and calendars, kept by any employees affiliated with Micron, regarding DRAM pricing, DRAM sales, DRAM production, DRAM supply, or consumers of DRAM products, for the years 1996 through 2004, inclusive.
- Documents and testimony submitted to federal and state class plaintiffs pursuant to In re: Dynamic Random Access Memory (DRAM) Antitrust Litigation, M-02-1486, a civil action pending in the Northern District Court of California that arose from the conduct that is the subject of Micron's amnesty application and the guilty plea entered by Alfred P. Censullo. These materials should include all documents and testimony submitted during discovery and settlement negotiations.
- Written declarations for admissibility and authenticity purposes pursuant to Federal Rules of Evidence 902 (11) and (12). If those declarations are deemed insufficient, we would request that Micron produce witnesses for purposes of generally testifying that the documents produced to us are authentic, true and correct copies of originals, and business records.
- All economic analyses (including notes, findings and reports) conducted for or formulated by Micron with respect to overcharges for DRAM Products in the United States and elsewhere.
- A list of, and contact information for, all current and former employees with knowledge related to the cartel, cartel meetings, price setting activity, sale of relevant products to Sun or Unisys (as identified in Attachment A), or the destruction and/or concealment of documentation of the foregoing, for the years 1996 through 2004, inclusive.
- Dates within the next 90 days upon which we may conduct interviews of each of the persons listed in response to the request above. We are willing to travel to the city in which these persons reside.
- A list of all documents that were destroyed as a result of the various investigations into the cartel's price-fixing activities or in furtherance of concealing such price-fixing activities from governmental regulators.

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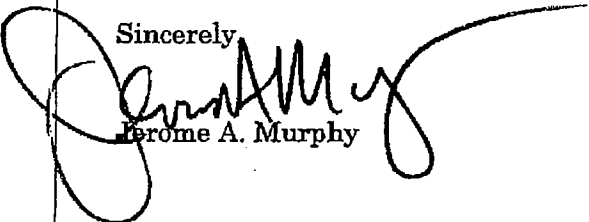
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- A description of all efforts used, by Micron and other cartel members, to conceal price-fixing activities including, but not limited to, the activities of Alfred P. Censullo and any Micron employees who may have directed, or participated in, Mr. Censullo's obstructive activities.

Provided that we receive timely and satisfactory cooperation with these and subsequent requests, we will file appropriate submissions to the appropriate court setting forth the nature of Micron's cooperation and the manner in which it has assisted Sun and Unisys with their civil actions.

Should you have any questions or require additional information, please feel free to contact me.

Sincerely



Jerome A. Murphy

Encl.