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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

IN RE STATIC RANDOM ACCESS
MEMORY (SRAM) ANTITRUST
LITIGATION

Case No. M:07-CV-01819-CW
MDL No. 1819

**ORDER GRANTING PRELIMINARY
APPROVAL OF DISTRIBUTION PLAN
AND NOTICE PLAN AND SETTING
FAIRNESS HEARING**

This Document Relates to:
ALL INDIRECT PURCHASER ACTIONS

The Court previously granted preliminary approval of the Settlement Agreement entered into between Indirect Purchaser Plaintiffs, on behalf of themselves and the Settlement Class, with Samsung Electronics Co., Ltd., Samsung Semiconductor, Inc., and Samsung Electronics America, Inc. (collectively “Samsung”) (hereinafter the “Samsung Settlement”). *See* Order Granting Preliminary Approval of Settlement With Samsung, dated Feb. 11, 2011 (DE 1324).

The Court also previously granted preliminary approval of the Settlement Agreement entered into between Indirect Purchaser Plaintiffs, on behalf of themselves and the Settlement Class, with Cypress Semiconductor Corporation (“Cypress”) (hereinafter the “Cypress Settlement”). *See* Order Granting Preliminary Approval of Settlement With Cypress, dated March 11, 2011 (DE 1329).

The Court, having reviewed and considered Indirect Purchaser Plaintiffs papers submitted in support of the proposed Plan of Distribution attached hereto as Exhibit 1, the Claim Form attached hereto as Exhibit 2, and the list of proposed Cy Pres Candidates attached hereto as Exhibit 3, and having reviewed IP Plaintiffs’ proposed Notice Plan detailed in the Declaration of Dennis Gilardi Re Dissemination of Notice to Class Members, including the proposed forms of summary

1 notice and long form notice attached hereto as Exhibits 4 and 5, respectively, hereby ORDERS
2 that:

3 1. For purposes of this Order, except as otherwise set forth herein, the Court adopts
4 and incorporates the definitions contained in the Samsung and Cypress Settlements;

5 2. For settlement purposes only and pursuant to Federal Rule of Civil Procedure 23,
6 the Court previously provisionally certified the following settlement class in connection with
7 Preliminary Approval of the Samsung Settlement and Cypress Settlement (the "Settlement Class"):

8 All persons and entities residing in the United States who, from
9 November 1, 1996 through December 31, 2006 (the "Class Period"),
10 purchased SRAM (as defined in paragraph 2) in the United States
11 indirectly from the Defendants. The class excludes the following
12 persons and entities: the Defendants; the officers, directors or
13 employees of any Defendant; any entity in which any of the
14 Defendants has a controlling interest; any affiliate, legal
15 representative, heir or assign of any Defendant; any federal, state or
16 local governmental entities; and any judicial officer presiding over
17 the Action and the members of her immediate family and judicial
18 staff.¹

19 3. The Court reiterates its prior provisional finding that the prerequisites to a class
20 action under Federal Rule of Civil Procedure 23 are satisfied for settlement purposes in that:

- 21 (a) there are thousands of class members and therefore joinder of all members is
22 impracticable;
- 23 (b) there are questions of law or fact common to the class which predominate over
24 individual issues;
- 25 (c) the claims or defenses of the class plaintiffs are typical of the claims or defenses of
26 the class; and
- 27 (d) the class plaintiffs will fairly and adequately protect the interests of the class, and
28 have retained counsel experienced in complex antitrust class action litigation who
have and will continue to adequately represent the class.

¹ Paragraph 2 of the Settlement Agreement defines SRAM as "all types of static random access memory (including pseudo static random access memory known as "PSRAM"), whether or not packaged, and any parts and modules thereof."

1 4. The Court finds that the Plan of Distribution proposed by IP Plaintiffs in Exhibits 1,
2 2 and 3 (the “Distribution Plan”) falls within the range of possible approval to justify publication
3 of notice of the Distribution Plan to Settlement Class members and scheduling of final approval
4 proceedings.

5 5. The Court hereby preliminarily approves the Plan, subject to a hearing on the final
6 approval thereof (the “Fairness Hearing”).

7 6. The Court will hold the Fairness Hearing pursuant to Federal Rule of Civil
8 Procedure 23(e) on October 6, 2011. The Fairness Hearing will be held to determine the
9 following:

10 (a) Whether the proposed Samsung and Cypress Settlements are fair, adequate and
11 reasonable and should be granted final approval by the Court pursuant to Federal
12 Rule of Civil Procedure 23(e);

13 (b) Whether final judgment should be entered dismissing the claims of the Settlement
14 Class against Samsung and Cypress with prejudice as required by the Settlements;

15 (c) Whether the proposed Distribution Plan is fair, adequate and reasonable and should
16 be granted final approval by the Court pursuant to Federal Rule of Civil Procedure
17 23(e); and

18 (d) Such other matters as the Court may deem appropriate, including any request by
19 Class Counsel for attorneys’ fees, reimbursement of costs and expenses, and
20 incentive payments for the court-appointed class representatives.

21 7. Gilardi & Co. shall serve as Settlement Administrator and its sister company,
22 Larkspur Design Group shall implement the notice plan.

23 8. The Court, having provisionally certified the Settlement Class, directs that notice be
24 issued to all members of the Settlement Class informing them of the Settlements, the Distribution
25 Plan and Fairness Hearing.

26 9. The Settlement Class consists of individuals and entities that indirectly purchased
27 SRAM from Defendants during the relevant time period. The Defendants have previously
28 indicated that they do not possess lists of the members of class. There does not exist through

1 reasonable efforts any comprehensive list of individual class members that would enable mailed
2 notice directly to each class member. Therefore the Court finds that notice by publication is the
3 most appropriate manner to provide notice to the class. Nevertheless, mailed notice shall also be
4 made to the potential indirect purchasers of SRAM identified by Plaintiffs and their Settlement
5 Administrator in their preliminary approval papers (hereinafter the "Direct Mail Recipients").
6 Plaintiffs have submitted a proposed notice plan outlined in the Declaration of Dennis Gilardi Re
7 Dissemination of Notice to Class Members (the "Notice Plan"), and are authorized to utilize up to
8 \$1,208,090 of the Settlement Fund to administer and disseminate class notice pursuant to the
9 Notice Plan to the Settlement Class.

10 10. By **June 23, 2011**, a Long Form Notice substantially in the form attached hereto as
11 Exhibit 5 shall be sent by the Settlement Administrator via first class U.S. mail, postage prepaid, to
12 the Direct Mail Recipients, and shall be made available on a website entitled
13 www.indirectsramcase.com. The Long Form Notice shall also be sent to all class members who
14 request written notice.

15 11. By **June 16, 2011**, Plaintiffs shall commence the published notice program. By
16 **July 25, 2011**, Plaintiffs shall publish a Summary Notice substantially in the form attached hereto
17 as Exhibit 4 in national newspapers and journals, and on the internet, pursuant to the Notice Plan.
18 In addition, Plaintiffs shall provide notice on the above-described website and on the website of
19 class counsel.

20 12. The Court finds that this manner of giving notice fully satisfies the requirements of
21 Federal Rule of Civil Procedure 23 and due process, constitutes the best notice practicable under
22 the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

23 13. Plaintiffs' Counsel shall file, not later than **August 1, 2011**, proof of compliance
24 with paragraphs 10 and 11 of this Order.

25 14. Each class member shall have the right to be excluded from the Settlement Class by
26 mailing a request for exclusion to the Settlement Administrator not later than **August 25, 2011**.
27 Requests for exclusion must be postmarked on or before **August 25, 2011**, in writing and set forth
28 the name and address of the person or entity who wishes to be excluded, as well as all trade names

1 or business names and addresses used by such person or entity, and must be signed by the class
2 member seeking exclusion. By **September 15, 2011**, Plaintiffs' Counsel shall file with the Court a
3 list of all persons who have timely requested exclusion from any of the classes.

4 15. Any class member who does not properly and timely request exclusion from the
5 Settlement Class shall, upon final approval of the Settlements, be bound by all terms and
6 provisions of the Settlements so approved, including but not limited to the releases, waivers, and
7 covenants described in the Settlements, whether or not such person or entity objected to the
8 Settlements and whether or not such person or entity made a claim upon the settlement funds.

9 16. As provided by the Notice, each class member who does not timely exclude itself
10 from the Settlement Class shall have the right to object to the Settlements, Distribution Plan or any
11 request for attorneys fees, cost reimbursement or incentive payments, by filing written objections
12 with the Court not later than **August 25, 2011**, copies of which shall be served on all counsel listed
13 in the Class Notice. Failure to timely file and serve written objections will preclude a class
14 member from objecting at the Fairness Hearing. Any person or entity submitting any objections
15 shall submit proof of membership in the Settlement Class.

16 17. All briefs, memoranda, and supporting papers in support of final approval of the
17 Settlements and/or the Distribution Plan shall be filed not later than **September 15, 2011**. Any
18 briefs, memoranda, and other papers responding to objections, if any, to the request for attorneys'
19 fees, cost reimbursement or incentive payments shall be filed on that date as well. Finally, any
20 Reseller member of the Settlement Class shall submit a claim for payment from the Settlement
21 Fund by no later than **October 24, 2011**. Any Reseller claim submission must be postmarked on
22 or before this date to be considered.

23 18. All further class proceedings as to the Settling Defendants remain stayed except for
24 any actions required to effectuate the Settlements.

25 19. The Court retains exclusive jurisdiction over this action to consider all further
26 matters arising out of or connected with the Settlements.

27 20. The Court is disinclined to include the proposed cy pres recipients whose missions,
28 as described in Plaintiffs' motion, are not related to the issues raised in the present action.

