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 14 Governmental Purchaser Class Plaintiffs

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

17 In re DYNAMIC RANDOM ACCESS
 18 MEMORY (DRAM) ANTITRUST
 LITIGATION

Master File No. M-02-1486-PJH
 MDL No. 1486

19 This document relates to:

Case No. C 06-4333 PJH
 Case No. C 06-6436 PJH

20 **ALL INDIRECT PURCHASER**
 21 **ACTIONS**

STIPULATION AND [PROPOSED]
SUPPLEMENTAL ORDER RE: (1)
APPOINTMENT OF HON. CHARLES B.
RENFREW AS SPECIAL MASTER; AND
(2) TREATMENT OF THE
SETTLEMENT FUNDS AS QUALIFIED
SETTLEMENT FUNDS UNDER
TREASURY REGULATIONS

22 and

23 *State of California et. al. v. Infineon*
 24 *Technologies AG, et. al.*

Judge: Honorable Phyllis J. Hamilton

25 and

26 *State of New York v. Micron Technology,*
Inc., et al.

27 **STIPULATION AND [PROPOSED] ORDER APPOINTING THE HONORABLE**
 28 **CHARLES B. RENFREW AS SPECIAL MASTER**

1 **STIPULATION AND [PROPOSED] ORDER**

2 WHEREAS, pursuant to the Court’s November 15, 2007 Order and Federal Rule of
3 Civil Procedure 53, the Indirect Purchaser Plaintiffs, the Governmental Purchaser Plaintiffs,
4 and Attorneys General (collectively “Plaintiffs”), Defendants Samsung Semiconductor, Inc.
5 and Samsung Electronics Company, Ltd. (“Samsung”) and Defendants Winbond Electronics
6 Corporation and Winbond Electronics Corporation America (“Winbond”) entered into a
7 Stipulation and [Proposed] Order on November 28, 2007; and

8 WHEREAS, on November 30, 2007, the Court signed the proposed Stipulation and
9 Order submitted by Plaintiffs, Samsung and Winbond, appointing the Honorable Charles B.
10 Renfrew, United States District Court Judge (Retired), as Special Master in these proceedings
11 pursuant to Federal Rule of Civil Procedure 53(a)(1)(A), and charging him with the duty of
12 preparing a report and issuing recommendations on the subjects of: (1) the plan of allocation
13 of settlement proceeds for the benefit of members of the Private Indirect Purchaser
14 Settlement Class and the Government Purchaser Settlement Class, and (2) the development
15 of form(s) of notice for the Classes (Dkt. # 1787); and

16 WHEREAS, also on November 30, 2007, this Court entered an Order Modifying
17 Stipulation and Order Appointing Special Master, in which the Court broadened the
18 reference to Judge Renfrew to include the duty of preparing a report and issuing
19 recommendations on the subject of whether, in light of the guidance of the Manual for
20 Complex Litigation, Fourth, § 21.23, certification of the proposed settlement classes,
21 including the creation of subclasses, is appropriate (Dkt. # 1789); and

22 WHEREAS, Plaintiffs have entered into a separate settlement agreement with
23 Defendants Infineon Technologies AG and Infineon Technologies North America Corp.
24 (“Infineon”), Elpida Memory, Inc. and Elpida Memory (USA) Inc. (“Elpida”), NEC
25 Electronics America, Inc., presently known as Renesas Electronics America Inc. (“NEC”),
26 Mosel Vitelic Corp. and Mosel Vitelic, Inc. (“Mosel”), Micron Technology, Inc. and Micron

1 Semiconductor Products, Inc. (“Micron”), and Hynix Semiconductor Inc. and Hynix
2 Semiconductor America Inc. (“Hynix”) (collectively, the “Settling Defendants”); and

3 WHEREAS, the settlement agreement between the Plaintiffs and the Settling
4 Defendants, as well as the settlement agreements entered into previously between the
5 Plaintiffs and Samsung and the Plaintiffs and Winbond, all contemplate the establishment of
6 one or more "Escrow Accounts," each intended to qualify as a "qualified settlement fund"
7 within the meaning of section 1.468B-1, et. seq. of the Treasury Regulations promulgated
8 under section 468B of the Internal Revenue Code; and

9 THEREFORE, the Plaintiffs and the Settling Defendants hereby stipulate to the
10 following proposed Order:

11 1. The Honorable Charles B. Renfrew, United States District Court Judge
12 (Retired), previously appointed as Special Master in these proceedings pursuant to Federal
13 Rule of Civil Procedure 53(a)(1)(A), shall have the authority granted by Rule 53(c), Federal
14 Rules of Civil Procedure, as to Plaintiffs’ proposed settlement with the Settling Defendants.¹

15 2. The Special Master’s duties shall be supplemented and modified to also
16 include assisting the Plaintiffs, the Settling Defendants and the Court by preparing a report
17 and issuing recommendations on the following subjects in connection with Plaintiffs’
18 proposed settlement with the Settling Defendants:

- 19 a. The development of a plan of allocation of settlement proceeds for the
20 benefit of members of the Private Indirect Purchaser Settlement Class and
21 the Government Purchaser Settlement Class, including the consideration
22 and/or addition of any subclasses or other means of ensuring a fair and
23 equitable allocation;

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25 ¹ The Special Master’s authority shall include the authority to appoint counsel to represent the
26 interests of any portion of the Settlement Class if he, in his discretion, determines that would be helpful.

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- b. The development of a proposed form of notice, and methods to disseminate that notice, in order to adequately apprise settlement class members of the proposed settlements; and
- c. In connection with the above duties, and taking into consideration the guidance provided by the Manual for Complex Litigation, Fourth, § 21.23, whether ultimate certification of the classes is appropriate; and
- d. The appropriate amount of fees and reimbursement of costs to be awarded to Plaintiffs and the appropriate amount of incentive awards to be awarded to class representatives pursuant to Section 29 of the settlement agreement between Plaintiffs and the Settling Defendants.

3. The Special Master shall proceed in the performance of these duties, which may be combined with the performance of the duties for which he was previously appointed, with all reasonable diligence and shall file his report and recommendations with the Court and serve the report on the parties on or before a date to be specified in future orders of the Court. In all respects this Court's Orders of November 30, 2007 shall remain in full force and effect.

4. The Special Master shall maintain and preserve any written order, report or recommendation the Special Master may make pursuant to this Stipulation and Order until this matter is finally resolved. The Special Master may designate formal briefs, information submissions, or any other materials as materials to be preserved and filed as the record of the master's activities and shall file such record with the Court in electronic format pursuant to future order of the Court. In order to facilitate the fair and effective performance of the duties set forth in Paragraph 3 above, the Special Master may communicate *ex parte* with the Court, counsel and the settling parties. The Special Master may review confidential documents and other information that is subject to the Protective Order issued in these actions as a court officer and shall be bound by the terms of the Protective Order.

1 defined in Treas. Reg. Section 1.468B-1) back to the earliest permitted date, and to make
2 reasonable assurance that the Escrow Accounts will be in a financial position to pay all
3 claims in strict compliance with the terms of the settlement agreements and as directed by the
4 Court. This order shall be effective *nunc pro tunc* to the date(s) of lodging of each of the
5 settlement agreements.

6 This Stipulation and Proposed Order is respectfully submitted this 22nd day of
7 November, 2010 by the following counsel for the Plaintiffs and the Settling Defendants.

8 COOPER & KIRKHAM, P.C.

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11 By: _____ /s/
12 Josef D. Cooper
13 Co-Lead Counsel for
14 Indirect Purchaser Plaintiffs

15
16 By: _____ /s/
17 Emilio E. Varanini
18 Liaison Counsel On Behalf of All Attorneys General
19 and All Governmental Purchaser Class Plaintiffs

20
21 By: _____ /s/
22 Joel S. Sanders
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27
28 Counsel for Defendants Micron Technology, Inc. and
Micron Semiconductor Products, Inc.

STIPULATION AND [PROPOSED] ORDER APPOINTING THE HONORABLE
CHARLES B. RENFREW AS SPECIAL MASTER

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By: _____ /s/

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Counsel for Defendant NEC Electronics America, Inc.
presently known as Renesas Electronics America Inc.

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By: _____ /s/
David C. Brownstein
Counsel for Defendants Mosel Vitelic Corp. and Mosel
Vitelic, Inc.

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Counsel for Defendants Winbond Electronics
Corporation and Winbond Electronics Corporation
America

ATTESTATION OF FILING

Pursuant to General Order No. 45§ X(B), I hereby attest that I have obtained
concurrence in the service and filing of this Stipulation with electronic signatures from all
counsel of the parties listed above.

DATED: November 22, 2010

COOPER & KIRKHAM, P.C.

By: _____ /s/
Josef D. Cooper

STIPULATION AND [PROPOSED] ORDER APPOINTING THE HONORABLE
CHARLES B. RENFREW AS SPECIAL MASTER

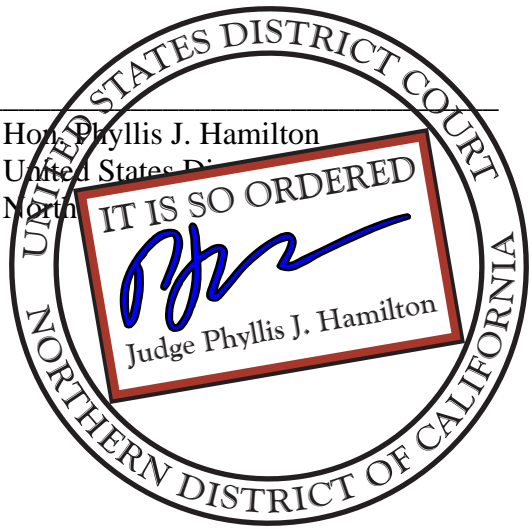
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ORDER

It is SO ORDERED.

11/29/10

Hon. Phyllis J. Hamilton
United States District Court
Northern District of California



STIPULATION AND [PROPOSED] ORDER APPOINTING THE HONORABLE
CHARLES B. RENFREW AS SPECIAL MASTER