

**SUPERIOR COURT
(CLASS ACTIONS)**

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N°: 500-06-000251-047

DATE: July 5, 2013

THE HONOURABLE PIERRE-C. GAGNON, J.S.C.

OPTION CONSOMMATEURS
PETITIONER

-AND-

CLAUDETTE CLOUTIER
DESIGNATED PERSON

C.

INFINEON TECHNOLOGIES AG
INFINEON TECHNOLOGIES NORTH AMERICA CORPORATION
MICRON TECHNOLOGY, INC.
HYNIX SEMICONDUCTOR INC.
SAMSUNG ELECTRONICS CO., LTD.
SAMSUNG SEMICONDUCTOR INC.
DEFENDANTS

-AND-

SAMSUNG ELECTRONICS CANADA INC.
SAMSUNG ELECTRONICS AMERICA, INC.
HYNIX SEMICONDUCTOR AMERICA INC.
HYNIX SEMICONDUCTOR MANUFACTURING AMERICA, INC.
RESPONDENTS

-AND-

FONDS D'AIDE AUX RECOURS COLLECTIFS
MISE EN CAUSE

-AND-

GROUPE BRUNEAU INC.
CLAIMS ADMINISTRATOR

JUDGMENT APPROVING THE HYNIX TRANSACTION REGARDING THE QUEBEC SETTLEMENT CLASS

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- [1] **WHEREAS** the Parties are involved in class action proceedings;
- [2] **CONSIDERING** the judgment rendered in the present case on May 21, 2013 by which the Court:
- Authorized the exercise of a class action against Hynix Semiconductor Inc., Hynix Semiconductor America Inc. and Hynix Semiconductor Manufacturing America, Inc. ("**Hynix**") for settlement purposes only;
 - Identified the principal questions to be treated collectively;
 - Approved the content and ordered the publication of a notice of hearing;
- [3] **CONSIDERING** that the proper notices were published in a timely fashion, in French and in English;
- [4] **CONSIDERING** the Motion before the Court;
- [5] **CONSIDERING** the exhibits on file, notably the agreement entered into on April 5, 2013 between the Petitioner and Hynix (the "**Hynix Transaction**");
- [6] **CONSIDERING** the submissions of counsel for the parties and the representations made on all sides during the hearing of June 25, 2013;
- [7] **CONSIDERING** Articles 1025, 1045 and 1046 of the *Code of Civil Procedure*;
- [8] **CONSIDERING** that the motion meets the criteria recognized by the Ontario precedent in *Dabbs*¹, as recently adapted in the Quebec case of *Conseil québécois sur le tabac et la santé*²;
- [9] **CONSIDERING** that the transaction conforms to the laws of Quebec regarding the waiver of the benefit of solidarity, as stated in *Bayer*³ and *Cadbury Adams Canada*⁴;
- [10] **CONSIDERING THAT**, after review, it is appropriate to grant the Motion of the Petitioner in respect of Hynix and the Hynix Transaction;

FOR THESE REASONS, THE COURT:

- [11] **DECLARES** that the definitions set forth in the Hynix Transaction apply to and are incorporated into this Judgment and, as a consequence, shall form an integral part hereof, it being understood that the said definitions are binding on

¹ *Dabbs v. Sun Life Assurance Company of Canada*, [1998] O.J. N°1598.

² *Conseil québécois sur le tabac et la santé v. JTI-Macdonald Corp.*, 2011 QCCS 4981.

³ *Johnson v. Bayer inc.*, 2008 QCCS 4957.

⁴ *Roy v. Cadbury Adams Canada inc.*, 2010 QCCS 4455.

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the parties to the Hynix Transaction, and that the Non-Settling Defendants are in no way bound by those definitions except for the purposes of this Judgment;

- [12] **DECLARES** that, subject to all other provisions of the present Judgment, the Hynix Transaction is valid, fair, reasonable and in the best interest of the Quebec Settlement Class Members, and constitutes a transaction within the meaning of Article 2631 of the *Civil Code of Québec*, binding all parties and all members described therein;
- [13] **APPROVES** the Hynix Transaction in conformity with Article 1025 of the *Code of Civil Procedure* and **DECLARES** that it shall be implemented in accordance with its terms, subject to the terms of this Judgment;
- [14] **DECLARES** that, subject to all other provisions of this Judgment, the Hynix Transaction, in its entirety (including the preamble, definitions, and schedules), is attached to this Judgment as Schedule "A" and shall form an integral part hereof and shall be binding on all Parties;
- [15] **DECLARES** that, in the event of a conflict or discrepancy between the terms of the present Judgment and those of the Hynix Transaction, the terms of the present Judgment shall prevail;
- [16] **ORDERS AND DECLARES** that, upon the Effective Date, the Releasors forever and absolutely release the Releasees from the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have;
- [17] **ORDERS AND DECLARES** that this Judgment, including the Hynix Transaction, shall be binding on every Settlement Class Member in the Quebec Action who has not validly opted-out of the action;
- [18] **DECLARES** that, by the Hynix Transaction, the Quebec Plaintiff and the Settlement Class Members in the Quebec Action expressly waive and renounce the benefit of solidarity against the Non-Settling Defendants with respect to the facts, deeds or other conduct of the Releasees;
- [19] **DECLARES** that the Quebec Plaintiff and the Settlement Class Members in the Quebec Action shall henceforth only be entitled to claim and recover damages, including punitive damages, interests and costs (including investigative costs claimed pursuant to s. 36 of the *Competition Act*) attributable to the conduct of the Non-Settling Defendants, the sales by the Non-Settling Defendants, and/or other applicable measure of proportionate liability of the Non-Settling Defendants;

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- [20] **DECLARES** that any claims in warranty or other claim or joinder of parties to obtain any contribution or indemnity from the Releasees or relating to the Released Claims shall be inadmissible and void in the context of the Quebec Action;
- [21] **DECLARES** that the ability of the Non-Settling Defendants to seek discovery from the Settling Defendants shall be determined according to the provisions of the *Code of Civil Procedure*, and the Settling Defendants shall retain and reserve all of their rights to oppose such discovery under the *Code of Civil Procedure*;
- [22] **DECLARES** that the Non-Settling Defendants may validly serve the proceedings referred to in the preceding paragraph relating to the Settling Defendants by serving such proceeding on the Settling Defendants' *ad litem* counsel, as identified in this Judgment;
- [23] **DECLARES** that this Court retains an ongoing supervisory role for the purposes of executing this Judgment;
- [24] **DECLARES** that the Quebec Action is hereby settled, without costs and without reservation as against the Settling Defendants;
- [25] **APPOINTS** Bruneau Group Inc. as Claims Administrator on the terms and conditions and with the powers, rights, duties and responsibilities set out in the Hynix Transaction;
- [26] **ORDERS** the Settling Defendants to pay the Settlement Amount to the Claims Administrator and to provide proof of payment to Class Counsel by the later of either:
- a) Sixty (60) days after the date of the Final Order; or
 - b) July 31, 2013;
- [27] **ORDERS** that after such payment, the Claims Administrator shall hold the Settlement Amount, plus any accrued interest, in trust for the benefit of the Settlement Class;
- [28] **DECLARES** that, once the Settling Defendants have paid the Settlement Amount to the Claims Administrator, the Settling Defendants shall have no responsibility or liability relating to the administration, investment or distribution of the Trust Account;
- [29] **ORDERS** that this Judgment is contingent upon the approval of the Hynix Transaction by the Ontario Court and the B.C. Court and this Judgment shall not be effective unless and until the Hynix Transaction is approved by the Ontario Court and the B.C. Court;

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[30] **ORDERS** Hynix Semiconductor Inc. to abandon its appeal of the Quebec Authorization Order before the Supreme Court of Canada within two weeks of the judgment to be rendered herein becomes effective;

[31] **THE WHOLE** without costs and without reservations.



Honourable Pierre-C. Gagnon, J.S.C.

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