

OFFICIAL COURT NOTICE

**IF YOU BOUGHT DYNAMIC RANDOM ACCESS MEMORY (“DRAM”) OR ELECTRONICS CONTAINING DRAM BETWEEN APRIL 1, 1999 AND JUNE 30, 2002, YOU COULD GET A PAYMENT FROM CLASS ACTION SETTLEMENTS WHICH TOTAL OVER \$79 MILLION.**

- There are final settlements with many defendants, proposed settlements with four defendants and a proposed plan to pay settlement funds to class members.
- The Courts in charge of this case still have to decide whether to approve the new settlements, the plan to pay settlement funds to class members and the lawyers’ request for fees and expenses.
- The settlement funds will total over \$79 million if the proposed settlements are approved. After payment of lawyers’ fees and expenses as approved by the Courts, the remaining settlement funds will pay claims from qualified people who submit valid claim forms.
- You do not need to submit a claim form yet but you will need to do so at a later date. There will be another notice with information on how to submit a claim.
- Your legal rights are affected whether or not you act. Read this notice carefully.

YOUR LEGAL RIGHTS	
If you support the settlements, the plan to pay settlement funds to class members and the lawyers’ request for fees and expenses.	Do nothing now. A further notice will be published when it is time to submit a claim. Contact one of the lawyers (see question 17) to have any further notices sent directly to you.
If you do not support the settlements, the plan to pay settlement funds to class members or the lawyers’ request for fees and expenses.	Send an objection. See questions 19 to 21 for more information.
Whether or not you support the settlements, the plan to pay settlement funds to class members or the lawyers’ request for fees and expenses.	Go to a hearing to object to or to hear the Courts consider these matters. See questions 22 to 25 for more information.
If you have any questions or want more information.	Contact the lawyers. See question 17 for their websites, email addresses and phone numbers.

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.

**Questions? Call 1-800-689-2322 or visit [www.cfmlawyers.ca/dram](http://www.cfmlawyers.ca/dram)**

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## BASIC INFORMATION

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### **1. Why was this notice issued?**

You have a right to know about settlements that have been reached in class action lawsuits brought against the manufacturers of DRAM, the plan to pay settlement funds to class members and the lawyers' request to be paid fees and expenses. The settlements and the plan to pay funds may affect your legal rights. You should consider your rights before the three "Courts" (the BC Supreme Court, the Ontario Superior Court of Justice, and the Québec Superior Court) decide whether to approve the settlements, the plan to pay settlement funds, and the lawyers' request to be paid fees and expenses. This notice explains the lawsuit, who is included, the terms of the settlements and your legal rights.

In this notice, the people who sued the DRAM manufacturers (Pro-Sys Consultants Ltd., Cygnus Electronics Corporation, Khalid Eidoo, and Option consommateurs) are called the "Plaintiffs", and the DRAM manufacturers who are being sued are called the "Defendants".

### **2. What is this lawsuit about?**

The Plaintiffs complained that the Defendants agreed to fix the price at which they sold DRAM and that, as a result, people who bought DRAM or electronic devices that contain DRAM paid more than they would otherwise have paid.

### **3. What is DRAM?**

DRAM is a form of computer memory that is contained in computers and other electronic devices.

DRAM devices and components include, without limitation, all types of EDO DRAM, fast-page mode ("FPM DRAM"), reduced latency DRAM ("RLDRAM"), synchronous dynamic random access memory ("SDRAM"), synchronous graphics dynamic random access memory ("SGRAM"), Rambus dynamic random access memory ("RDRAM"), asynchronous dynamic random access memory ("ASYNC"), and double data rate dynamic random access memory ("DDR") including modules containing DRAM, EDO DRAM, FPM DRAM, RLDRAM, RDRAM, SDRAM, SGRAM, ASYNC and/or DDR.

### **4. What "electronic devices" contain DRAM?**

Most electronic devices contain DRAM. Some examples are:

- computers and servers
- printers
- computer hard disk drives
- personal digital assistants

- graphics cards
- video recorders, televisions, and digital set top boxes
- game consoles
- MP3 players
- point of sale systems.

#### **5. Why is this lawsuit a class action?**

In a class action, people called “representative plaintiffs” or “class representatives” sue on behalf of all the people, called “class members” or the “class”, who have a similar problem. Pro-Sys Consultants Ltd. represents all class members in BC. Option consommateurs represents all class members in Québec. Mr. Eidoo and Cygnus Electronics Corporation represent all class members who live elsewhere in Canada or who live in the US but bought DRAM or electronic devices containing DRAM in Canada. A class action allows the courts to resolve the issues for everyone affected, except for those who choose to exclude themselves (opt out) from the class.

#### **6. Why are there settlements?**

The Courts did not decide in favour of the Plaintiffs or the Defendants. There was no trial. Instead, the Plaintiffs and the Defendants have agreed to settlements. The class representatives and their lawyers (called “class counsel”) think the proposed settlements are best for the whole class, so they are asking the Courts to approve them.

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### **CLASS MEMBERSHIP**

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To see if these class actions affect you, and if you might be entitled to make a claim for a payment from the settlement funds, you must first determine whether you are in the class.

#### **7. How do I know if I am in the class?**

You are a class member if you:

- (a) bought DRAM or an electronic device containing DRAM between April 1, 1999 and June 30, 2002 anywhere in the world, including in Canada

AND

live in Canada now or between April 1, 1999 and June 30, 2002;

OR

- (b) bought DRAM or an electronic device containing DRAM in Canada between April 1, 1999 and June 30, 2002

AND

live in the US now or between April 1, 1999 and June 30, 2002.

**8. Are there exceptions to class membership?**

You are not a class member if you:

- (a) are related to one of the Defendants;
- (b) opted out of this lawsuit before June 2, 2012; or
- (c) settled your claims in the US DRAM class actions.

**9. What if I am still not sure if I am included?**

If you are not sure if you are included, you may call 1-800-698-2322 with questions. Also, the Courts' official "class definitions" are at [www.cfmlawyers.ca/dram](http://www.cfmlawyers.ca/dram) and the other lawyers' websites (see question 17 for the URLs).

**10. What if I do not want to be in the class?**

If you are a class member, you are now part of the class. The deadline to exclude yourself, or opt out, of the class has passed.

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**SETTLEMENT BENEFITS**

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**11. What settlements are final?**

There are final settlements which total \$67.275 million with seven Defendants: Elpida, Micron, Nanya, NEC, Hitachi, Samsung, and Hynix. Those settlements have already been approved by the Courts. The funds from those settlements are being held in trust and are earning interest for the class. "Settlement Agreement" documents on the lawyers' websites (see question 17 for the URLs) contain more detail.

**12. What do the proposed settlements provide?**

There are four proposed settlements:

- Infineon is to pay \$9 million.
- Mitsubishi is to pay \$1.25 million.
- Toshiba is to pay \$1.495 million.
- Winbond is to pay \$450,000.

These amounts will be added to the funds from the final settlements and be used to pay class members' claims and the lawyers' fees and expenses if approved. "Settlement Agreement" documents on the lawyers' websites (see question 17 for the URLs) explain the terms in more detail.

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## THE PLAN TO PAY SETTLEMENT FUNDS TO CLASS MEMBERS

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### **13. How are the settlement funds proposed to be divided up?**

The plan to pay settlement funds to class members splits the total amount into three funds, created to benefit three different types of DRAM purchasers:

- (a) the End Consumer Fund: 50%;
- (b) the EMS (electronic manufacturing services) Fund: 30%; and
- (c) the Other DRAM Purchaser Fund: 20%.

You can claim in any fund if you are that type of DRAM purchaser, and you can claim in more than one fund. More detailed definitions of the funds and who should claim in which fund are available in the “Distribution Protocol” document on the lawyers’ websites (see question 17 for the URLs).

### **14. How much will I get?**

That depends on what kind of purchaser you are and how much DRAM you purchased.

If you are an End Consumer (you bought DRAM or electronic devices containing DRAM for your own use, not for resale), you will get a minimum of \$20.

If you bought DRAM or electronic devices containing DRAM for manufacturing purposes, resale or other purposes, you may receive much more depending on the amount you purchased.

More information on how claims will be calculated is available in the “Distribution Protocol” document on the lawyers’ websites (see question 17 for the URLs).

### **15. How can I get a payment?**

Right now, you do not need to do anything, but you will have to make a claim at a later date. If you contact one of the lawyers listed below (see question 17), you will get another notice explaining how to make a claim. Keep any receipts or other purchase records that you have.

You can also monitor the lawyers’ websites (see question 17 for the URLs) for new information.

### **16. Will I have to pay anything?**

No. No class member will have to pay any court costs or lawyers’ fees or expenses with respect to this class action. As explained below in question 18, the lawyers for the class will be paid from the settlement funds. However, if you choose to hire your own lawyer, it will be at your expense.

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**THE LAWYERS (CLASS COUNSEL)**

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**17. Do I have a lawyer in this case?**

Yes. The law firm of Camp Fiorante Matthews Mogerman represents the class members living in BC. The law firm of Belleau Lapointe represents most class members living in Québec. The law firms of Sutts, Strosberg LLP and Harrison Pensa LLP jointly represent all other class members.

Camp Fiorante Matthews Mogerman 400-856 Homer Street Vancouver, BC V6B 2W5 604-689-7555 or 1-800-689-2322 dram@cfmlawyers.ca Attn: J.J. Camp, Q.C. www.cfmlawyers.ca/dram	Belleau Lapointe #306, Place d'Youville, Suite B-10 Montreal, Québec, H2Y 2B6 514-987-6700 or 1-888-987-6701 info@belleaulapointe.com Attn: Maxime Nasr www.recourscollectif.info/en/cases/dram/
Sutts Strosberg LLP 600 – 251 Goyeau Street Windsor, Ontario N9A 6V4 1-800-229-5323 extn 8296 dramclassaction@strosbergco.com Attn: Heather Rumble Peterson www.dramclassaction.com	Harrison Pensa LLP 450 Talbot Street London, Ontario N6A 5J6 1-800-263-0489 jforeman@harrisonpensa.com Attn: Jonathan Foreman www.harrisonpensa.com/d-ram

You will not be charged any money by these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**18. How much will the lawyers be paid?**

The lawyers will ask the Courts for a fee of 30% of the total settlements, plus taxes and case expenses. This amount, if approved by the Courts, will be deducted from the settlement funds before paying class members' claims.

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**OBJECTING**

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You can tell the Courts that you don't agree with all or part of the proposed settlements, the plan to pay settlement funds to class members or the lawyers' request for fees and expenses.

**19. How do I tell the Courts if I am against the settlements, the plan to pay settlement funds to class members or the lawyers' request for fees and expenses?**

If you have an objection, you must send your comments in writing by mail or email to one of the lawyers at the addresses listed above under question 17. The lawyers must receive it by **Monday, August 25, 2014**.

Do not send your objection directly to the Courts. The lawyers will give a copy of your objection to the Courts.

Be sure to explain why you are against all or part of the proposed settlements, the plan to pay settlement funds to class members or the lawyers' request for fees and expenses.

If you send an objection, you do not have to come to court to talk about it. However, you may also be able to object by speaking at a court hearing, either those describe below or further hearings as set by the Courts. See questions 22 to 25 below.

**20. Do I need a lawyer to object?**

No. You can object without paying a lawyer. If you want to be represented by your own lawyer, you can hire one at your own expense.

**21. If I object, will I still be eligible to make a claim on the settlement funds?**

Yes. If you object, but the Courts still approve the proposed settlements and the plan to pay settlement funds to class members, you will still be able to make a claim.

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**COURT APPROVAL**

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The Courts in BC, Ontario and Quebec will each hold a hearing to consider whether the proposed settlements, the plan to pay settlement funds to class members and the lawyers' request for fees and expenses are reasonable and in the best interests of the class.

**22. When and where will these hearings take place?**

The dates, times and places of the hearings are:

<p><u>In BC:</u> On <b>Monday, September 8, 2014 at 10am</b> British Columbia Supreme Court Vancouver Courthouse, 800 Smithe Street Courtroom number not available until date of hearing.</p>	<p><u>In Québec:</u> On <b>Friday, September 5, 2014 at 9:30am</b> Québec Superior Court Montreal Courthouse, 1, rue Notre-Dame Est Courtroom <b>2.08</b>.</p>
<p><u>In Ontario:</u> On <b>Wednesday, September 10, 2014 at 10am</b> Ontario Superior Court of Justice Toronto Courthouse, 361 University Avenue Courtroom number not available until date of hearing.</p>	

**23. Do I have to come to a hearing?**

No. But you are welcome to come at your own expense. The lawyers will answer any questions the judges may have.

If there are objections, the Courts will consider them at the dates set out above or at other dates as set by the Courts. If you send an objection, the lawyers will give a copy of it to the judges.

**24. If I want to come to a hearing, which one should I go to?**

If you live in BC, you should go to the hearing in Vancouver.

If you live in Québec, you should go to the hearing in Montreal.

If you live anywhere else, you should go to the hearing in Toronto.

**25. May I speak at a hearing?**

You are welcome to go to a hearing (see question 24 for which hearing you should attend) and ask the Court for permission to speak about the proposed settlements, the plan to pay settlement funds to class members or the lawyers' request for fees and expenses. You may also pay a lawyer to attend and speak for you, but it is not required.

**26. How long will it take the Courts to decide?**

The Courts may decide to approve the proposed settlements, the plan to pay settlement funds to class members or the lawyers' request for fees and expenses at the hearings, or they may take longer. If they do decide to approve the proposed settlements, the plan to pay settlement funds to class members and the lawyers' request for fees and expenses, we must allow time for appeals. After all of that, the proposed settlements, the plan to pay settlement funds to class members and the lawyers' fees and expenses become final.

**27. What is the result if the Courts approve the settlements or the plan to pay settlement funds to class members?**

If the Courts approve the proposed settlements, you will be bound by their terms. If the settlements are approved, a full release of claims will be granted to Infineon, Mitsubishi, Toshiba and Winbond and related entities and individuals. You will not be able to sue them again.

If the Courts approve the plan to pay settlement funds to class members, there will be another notice to give you information on how to claim some of that money.

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**DOING NOTHING**

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**28. What happens if I do nothing at all?**

If you do nothing, you will be bound by the terms of the proposed settlements.

You do not need to do anything now to make a claim on the settlement funds. You will need to make a claim at a later date. If you contact one of the lawyers listed in question 17, they will make sure any further notices are sent directly to you.

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## HISTORY OF THE CLASS ACTIONS

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### **29. What else has happened in these class actions?**

The class actions were started as far back as 2004, so many things have happened.

The lawsuit in BC was not certified at first instance but was certified by the BC Court of Appeal in 2010. The Defendants' applications to the Supreme Court of Canada for leave to appeal and reconsideration of denial of leave were both denied.

The lawsuit in Québec was not authorized at first instance but was authorized by the Québec Court of Appeal in 2011, and by the Supreme Court of Canada in 2013.

There are two lawsuits in Ontario, both of which are being prosecuted together, and neither of which have proceeded to a contested certification hearing.

All of the lawsuits have been finally certified or authorized for settlement purposes only as against Elpida, Micron, NEC, Nanya, Hitachi, Samsung and Hynix. Each of those settlements has been approved and the class actions dismissed against those Defendants

The Courts have also certified or authorized the class actions as against Toshiba and Winbond for settlement purposes only, and the BC and Ontario Courts have certified the class actions as against Infineon and Mitsubishi for settlement purposes only. The Québec Court will consider authorization as against Infineon and Mitsubishi for settlement purposes at the hearing on September 5.

Court approval of the Infineon, Mitsubishi, Toshiba and Winbond settlement agreements is a condition of the certification or authorization for settlement purposes. If the Infineon, Mitsubishi, Toshiba or Winbond settlement agreements are not approved, the certification or authorization will be revoked and the settlement will be null and void.

The Courts have not taken any position as to the likelihood of recovery on the part of the representative plaintiffs or other members of the class, or as to the merits of the claims or defences asserted by either side. The allegations against the Defendants have not been proven and they deny liability.

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## NEXT STEPS IN THE CLASS ACTIONS

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### **30. If there are settlements, are the class actions continuing?**

The class actions in BC and Quebec are now over, except for paying settlement funds to class members.

The class action in Ontario is continuing against the remaining defendant in addition to paying settlement funds to class members.

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## GETTING MORE INFORMATION

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### 31. How do I get more information?

You can get copies of the claims, the Settlement Agreements and the plan to pay settlement funds (called the “Distribution Protocol”), as well as other information on the class actions, at [www.cfmlawyers.ca/dram](http://www.cfmlawyers.ca/dram) or any of the other lawyers’ websites, as listed in question 17.

You can email questions to [dram@cfmlawyers.ca](mailto:dram@cfmlawyers.ca) or any of the other lawyers’ email addresses, as listed in question 17.

Finally, you can call 1-800-689-2322 or any of the other lawyers listed in question 17.

The official court references for these lawsuits are:

- BC: *Pro-Sys Consultants Ltd. v. Infineon Technologies AG*, Court File No. L043141, Vancouver Registry.
- Ontario: *Eidoo v. Infineon Technologies AG*, Court File No. 05-CV-4340, Windsor and *Eidoo v. Hitachi Ltd.*, Court File No. 10-CV-15178, Windsor.
- Québec: *Option consommateurs v. Infineon Technoloiges AG*, File No. 500-06-000251-047, Montreal

Please do not contact the Courts. The lawyers would be happy to answer any questions you have.

**THIS NOTICE HAS BEEN AUTHORIZED BY THE SUPREME COURT OF BRITISH COLUMBIA, THE  
SUPERIOR COURT OF JUSTICE FOR ONTARIO, AND  
THE SUPERIOR COURT OF QUÉBEC**