

Prison terms in chip scheme

Samsung officials admit to conspiring in price-fixing case

- Benjamin Pimentel, Chronicle Staff Writer

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Three Samsung Electronics executives will serve up to eight months in federal prison for their roles in a worldwide memory chip price-fixing conspiracy, the Justice Department said Wednesday.

The executives agreed to plead guilty for their part in a scheme to manipulate prices on dynamic random access memory chips, or DRAM, sold to computer-makers such as Hewlett-Packard, IBM and Apple from 1999 to 2002.

The South Korean company, the world's largest DRAM manufacturer, had agreed late last year to plead guilty to federal charges and pay a \$300 million fine. It was the second-largest criminal antitrust penalty in U.S. history.

Sentenced to seven months in prison were Yeongho Kang, associate director for DRAM marketing for Samsung's U.S. subsidiary in San Jose, and Young Woo Lee, sales director for Samsung's subsidiary in Germany, who is based in Frankfurt.

Sun Woo Lee, Samsung's senior manager of DRAM sales in Seoul, will serve eight months.

Each executive will also pay a \$250,000 fine and agreed to cooperate with the Justice Department's antitrust division in its investigation of the DRAM industry.

The three executives are now in Seoul. They agreed not to contest the jurisdiction of the United States, eliminating the need for extradition proceedings.

"These are major developments, not just in the DRAM investigation, but in the division's program to combat anticompetitive international cartels," said Phillip Warren, chief of the San Francisco office of the Justice Department's antitrust division.

"We believe the most effective way to deter cartels is to prosecute the executives who are responsible, wherever they are located, and to secure prison terms of them," Warren said. "Fines on corporations are significant, but can be viewed as a cost of doing business. Prison terms always get the attention of executives."

The investigation of the price-fixing scam is still open. Four other Samsung executives could be charged, including Young Hwan Park, chief executive officer and president of Samsung Semiconductor Inc., the company's North American microchip subsidiary, according to the October plea agreement.

DRAM chips are used in personal computers, laptops, workstations, servers, digital cameras and mobile phones. About \$7.7 billion worth of DRAM chips were sold in the United States in 2004, the Justice Department said.

According to the agency, between April 19, 1999, and June 15, 2002, the three Samsung executives "conspired with unnamed employees from other memory- makers to fix the prices of DRAM" sold to manufacturers of computers and servers in the United States.

Other affected computer companies were Compaq Computer, which was bought by HP in 2002, and Gateway.

"The conspiracy was led by high-level executives, and implemented by many of the conspirators' sales account managers for the large computer manufacturers," Warren said in an e-mail.

"When prices in the DRAM market were increasing, competitors talked and agreed on when and by how much the price should go up (sometimes reaching explicit agreement on what price they would start their negotiations with and where they intended to end)," Warren wrote. "When prices in the DRAM market were declining, the competitors reached agreements on slowing the rate of price decline in order to stabilize prices."

Warren said price negotiations for DRAM took place "once or twice every month" primarily by phone and sometimes in person.

"The meeting occurred in cities throughout the world," he said. "Co-conspirators were on the phone with each other on a weekly -- and sometimes daily -- basis, discussing, exchanging and agreeing on prices they would sell to customers."

U.S. Attorney General Alberto Gonzales said in a statement: "These pleas should send a clear message that we will hold accountable all conspirators, whether domestic or foreign, that harm American consumers through their illegal conduct."

In a statement, Samsung said the company is "strongly committed to fair competition and ethical practices and forbids anti-competitive behavior."

The pleas and sentences must be approved by the U.S. District Court in San Francisco.

The DRAM price-fixing case has led to charges against 12 individuals and four companies, and fines up more than \$731 million.

Last week, four Hynix Semiconductor executives pleaded guilty to price-fixing charges and were sentenced to serve jail terms of five to eight months and each pay a \$250,000 fine.

In December 2004, four Infineon executives pleaded guilty to price fixing and later served to four to six months in jail and paid a \$250,000 fine each.

In December 2003, the Justice Department charged Alfred Censullo, a regional sales manager for Micron Technology, with obstruction of justice. Censullo pleaded guilty to

withholding and altering documents in connection with a grand jury subpoena. He served six months in home confinement, according to Warren.

Warren would not comment on where the three Samsung executives will serve time. He said the Infineon executives served their sentences in a federal minimum-security facility in Lompoc. A court has recommended that the Hynix executives serve time in the same facility, he said.

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