



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Micron Investor Sues For Corporate Docs Over Price-Fixing

By **Vince Sullivan**

Law360 (April 11, 2019, 7:25 PM EDT) -- A shareholder of digital memory chip maker Micron Technology Inc. filed suit Thursday in Delaware Chancery Court seeking board meeting documents to investigate allegations of a price-fixing conspiracy with Samsung Electronics Co. Ltd. and others.

Investor Steven R. Nusbaum filed his complaint demanding an inspection of corporate books and records under Section 220 of the Delaware General Corporation Law after media reports indicated Chinese regulators were investigating Micron and others for potential collusion to artificially inflate the prices of mobile phone memory chips.

According to Nusbaum's complaint, Micron didn't disclose the investigation being undertaken by China's State Administration for Market Regulation until it filed its 10-K report with the U.S. Securities and Exchange Commission in October, despite being on notice of the inquiry as early as December 2017 when news reports first mentioned the price-fixing allegations.

The SEC filing disclosed that SAMR officials made "unannounced visits" to sales offices in Shanghai, Beijing and Shenzhen as part of the investigation, and Micron said it was cooperating with the regulators.

The investigation was triggered by an unexpected and unexplained surge in prices for digital random access memory chips, or DRAM, in 2017 after several years of steady price decreases. At that time, prices jumped about 47 percent, the complaint said, while expected production rates decreased significantly.

The results of the SAMR investigation indicated there was "massive evidence" of anti-competitive behavior by Micron, Samsung and Hynix Inc., which account for more than 95 percent of the global DRAM market, Nusbaum said. The findings resulted in a string of antitrust and breach of fiduciary duty lawsuits in the U.S. and Canada, including one filed in March in Delaware federal court.

The announcement of the investigation results caused Micron's stock value to drop by nearly 7 % in one day, from \$39.44 to \$36.83 per share, the suit said. Nusbaum alleges Micron's board made false and misleading statements about the company's financial performance and the competitive nature of the DRAM industry.

Nusbaum is seeking records from Micron dealing with board meetings from January 2016 until March 2019 to complement the public information already available about the alleged price-fixing scheme.

"Public information about Micron's anti-competitive activities and materially false and misleading statements supplies a basis to suspect wrongdoing that warrants investigation, but that information is insufficient for plaintiff's purpose of investigating that wrongdoing," the complaint said.

Micron representatives couldn't immediately be reached late Thursday for comment.

Nusbaum is represented by Seth D. Rigrodsky, Brian D. Long and Gina M. Serra of Rigrodsky & Long PA, and Joshua H. Grabar of Grabar Law Office.

Counsel information for Micron was not immediately available late Thursday.

The case is Steven R. Nusbaum v. Micron Technology Inc., case number 2019-0279, in the Court of Chancery of the State of Delaware.

--Additional reporting by Dorothy Atkins. Editing by Aaron Pelc.

All Content © 2003-2019, Portfolio Media, Inc.