

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CERTIFICATE OF SERVICE

I, W. Harding Drane, Jr., hereby certify that on December 30, 2008, the attached document was hand delivered to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and the document is available for viewing and downloading from CM/ECF:

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Dated: December 30, 2008

EXHIBIT B

From: Fowler, Jeffrey
Sent: Friday, October 03, 2008 3:13 PM
To: Worthington, McKay (Perkins Coie Brown & Bain); Pickett, Donn; Rocca, Brian; Dillickrath, Thomas
Cc: Herron, David; Vespremi, Roberta; Ozmun, Beth
Subject: RE: AMD Document Production Proposal

McKay, Brian and Tom -

Below is an outline of the points we resolved during yesterday's telephone conference and a new set of subject-matter parameters that AMD believes should resolve the parties' largely minor differences on that topic. We plan to begin our review first thing Monday, so we would appreciate hearing from you as soon as possible. My outline follows the numbering convention that McKay created.

2. Given yesterday's discussion, Intel agrees that AMD will not add Exchange Administrators to its existing custodian list.
3. AMD agrees to add the names of designated custodians to its key-word search.

Intel agrees to withdraw the terms Ozmun, ftk, .msg, ost, pst, copy, disk, and hcl from its proposed key word list. AMD agrees to include Intel's remaining key words in its search. Accordingly, in addition to the names of the designated custodians, the search string to be used on the email collections of Redacted is:

attenex, auto-archiv*, "auto archiv*", auto-delet*, autodelet*, "auto delet*", backup, cardine, collect, corrupt*, crash*, delet*, drivesavers, "drive savers", "data recovery center", double-delet*, "double delet*", "shift delet*", dumpster*, edb, encase, export*, extract*, FCS, Forens*, @forensicsconsulting.com, harvest*, "hold /2 notice", imag*, intel, journal*, KJ, kuchta, lawsuit, litigation, "litigation /2 hold", "litigation /2 notice", loss, "lost file*", "preservation /2 notice", quota, recover, retention, retain*, robocopy, scanpst, "search term", "shift delet*", shift /5 delet*, stratify, symantec, tape, transfer*, vault*, archive*, migrat*, EV, Enterprise, import*, restor*, fail*, reten*, retain, preserve*, instruc*, "nag notice".

AMD's agreement to include key words that refer to its litigation consultants, including "Cardine," "Kuchta" and "FCS," does not imply that there are any non-core, unprivileged, responsive documents to produce for the reasons that we discussed.

4. The date range applied to Redacted email review shall be extended to October 1, 2006 through August 31, 2006.

Yesterday, we agreed that Redacted beginning date would remain July 1, 2006 because this is the start of her involvement in PST migrations. Since our conversation, we have learned that Redacted may have provided some technical support prior to July 1, 2006, therefore, out of an abundance of caution, AMD will push back Redacted beginning date to November 1, 2005, which represents the earliest time that custodians were migrated to the Vault.

7. The ending date for all custodians other than Redacted will be March 31, 2007, except that: (1) AMD agrees to expand its date range to April 30, 2007 for any emails relating to designated custodians who were journaled after March 31, 2007 but on or before April 15, 2007, namely Redacted (4/7/07), Redacted (4/9/07), Redacted (4/9/07), Redacted (4/9/07), Redacted (4/9/07), Redacted (4/9/07), and Redacted (4/12/07); and (2) AMD will search emails relating to Redacted (who was journaled on December 13, 2007) through December 31, 2007.
- 5, 6. AMD proposes the following language to describe the categories of documents that the parties consider responsive:

AMD shall review and produce non-privileged, non-core documents responsive to the subject matters: (1) outlined in Judge Poppitti's chart entitled, "Summary of Specific Technical Issues Raised in Intel's Discovery Requests, AMD's Motion to Quash and Related Filings;" and (2) addressed by Intel at the September 11, 2008 hearing, which are: _____ [Intel to fill in if there are any]. This shall include all documents related to: (1) the design, implementation of the Vault/Journal systems; (2) the migration of designated custodians' email accounts and archives to the Vault/Journal; (3) the re-configuration and restoration of Exchange Dumpsters; and (4) any other purported preservation, retention, or data loss issue, either systemic or specific to a designated custodian.

As discussed, the parties acknowledge that they may, through this process, identify other relevant documents and will work together to promptly supplement AMD's production as necessary and appropriate.

With respect to the production of documents related to non-designated custodians, the parties are at an impasse. Each have stated their positions and reserved rights.

Finally, we confirm what the parties have discussed before and during yesterday's call: it is our mutual intent to complete document production entirely within the informal process; the parties expect to proceed with informal discovery and deposition(s) in an efficient manner so that, through this process, Intel will complete its discovery of AMD's preservation efforts.

We are hopeful that these points bring about finalization of our agreement so as to permit us to move forward with our document review, which we are anxious to do. We look forward to your comments.

Best,
Jeff

From: Worthington, McKay (Perkins Coie Brown & Bain) [mailto:MWorthington@perkinscoie.com]
Sent: Wednesday, October 01, 2008 3:18 PM
To: Fowler, Jeffrey; Pickett, Donn; Rocca, Brian
Cc: Herron, David; Vespremi, Roberta; Ozmun, Beth
Subject: RE: AMD Document Production Proposal

Jeff and David,

Thanks for preparing this. We would like to add some search terms, and some of the language about the scope of what AMD will produce is too narrow. I've numbered your paragraphs to make the discussion easier. Here is our proposal.

1. Fine

2. We appreciate AMD identifying custodians likely to have responsive materials. One question, though, is whether this group of 5 people include all the MS Exchange administrators at AMD, or whether the email from these 5 will capture all relevant communications with the administrators? Those administrators would normally be the personnel who would make the necessary changes on the email servers when the litigation hold was implemented and their communications would be relevant to AMD's retention. We understand that AMD has at least 20 Exchange email servers.

3. We have agreed that AMD may narrow down the number of documents for review by using search terms. But the terms you propose are not adequate to capture the documents that should be reviewed. We would like you to add the names of AMD custodians to the search-term list. We're open to suggestions about how to do that (we understand it would not be efficient to review each document containing the word Redacted anywhere, when what we're interested in is communications with Redacted). We also want the following terms added to the search term list:

attenex, auto-archiv*, "auto archiv*", auto-delet*, autodelet*, "auto delet*", backup, cardine, collect, copy, corrupt*, crash*, delet*, drivesavers, "drive savers", "data recovery center", double-delet*, "double delet*", "shift delet*", disk*, dumpster*, edb, encase, export*, extract*, FCS, Forens*, @forensicsconsulting.com, ftk, harvest*, hcl, "hold /2 notice", imag*, intel, journal*, KJ, kuchta, lawsuit, litigation, "litigation /2 hold", "litigation /2 notice", loss, "lost file*", msg, ost, ozmun, "preservation /2 notice", pst, quota, recover, retention, retain*, robocopy, scanpst, "search term", "shift delet*", shift /5 delet*, stratify, symantec, tape, transfer*, vault*

Your description of the "aspects of AMD's preservation effort" that the search terms are meant to capture is much narrower than the scope of informal discovery as set out in the chart provided by the Special Master and as discussed in calls between counsel over the past week or so. But we do not read that sentence as an attempt by you to limit the scope of production (the sentence in paragraph 5 causes us more concern and I address it below). If we're wrong, and you do intend that phrase to be some kind of narrowing of the scope of informal discovery, let us know because we cannot agree with that approach.

4. The beginning date for all custodians should be March 1, 2005. AMD sent a hold notice to its IT personnel on March 11, initiating preservation activity by IT personnel. Any beginning date later than March 11 will exclude relevant information about these employees' actions. We prefer March 1 rather than March 11 as a start date because it would capture the lead-up to the issuance of the IT hold notice. We address the ending date in paragraph 7 below.

5. This is wrong. The scope of informal discovery cannot be narrowed in this manner. The scope of relevance for informal discovery is set by (1) the issues discussed at the hearing with the Special Master on AMD's motion to quash, (2) the chart provided to the parties by the Special Master in preparation for the hearing, and (3) the issues that have been discussed by the parties subsequent to the hearing, and (4) other issues that may -- in good faith -- arise

during the informal interviews, whether raised by AMD, Intel, or Mr. Friedberg. As drafted this paragraph might be read to allow you to withhold all emails about harvesting for example, which is not acceptable. We expect that, as your reviewers review documents, if a document is relevant to AMD's retention, harvesting, processing, or production of documents, they will treat it as relevant and not try to withhold it based on a constricted reading of narrow language like that in paragraph 5

6. The scope of documents produced from [Redacted] should be the same as we describe above in paragraph 5. Again, the narrow language in your email might exclude communications about [Redacted] re-configuration of [Redacted] and [Redacted] dumpsters. Obviously, that kind of restriction is contrary to the goal of this informal process.

7. This paragraph excludes non-production custodians who were not journaled prior to March 31, 2007. Intel maintains that retention of AMD's non-production custodians is relevant and should be disclosed. I know we disagree on this point, and perhaps AMD will continue to withhold this information from the current document production, but Intel is not abandoning its position. There is also one production custodian who is not included ([Redacted]). The following names should be added to this paragraph: [Redacted] (4/12/2007), [Redacted] (4/12/2007), [Redacted] (12/13/2007) (production custodian), [Redacted] (4/9/2007), [Redacted] (4/9/2007), [Redacted] (4/12/07), [Redacted] (4/12/07), [Redacted] (4/12/2007), [Redacted] (4/9/07).

You also set the cutoff date as two weeks after March 31 for custodians journaled after March 31. That does not make sense because there are custodians on your own list who were not journaled until nearly two weeks after March 31. The cutoff date for custodians journaled after March 31 should be two weeks after their journal date.

8. We understand your position.

9. We don't anticipate a problem achieving a waiver agreement.

Finally, we are only talking about informal disclosure now, and Intel is not waiving any of its formal discovery request or rights -- although we understand that the purpose of this informal exercise is to make subsequent formal discovery more efficient. Also, although we believe that our proposal above will satisfy Intel's need for informal document disclosure from AMD, we may learn information that could cause us to re-visit some parts of this proposal to seek additional information. We are acting, and will continue to act in good faith to achieve the goals for this informal process discussed by the Special Master at the hearing.

From: Fowler, Jeffrey [mailto:JFowler@OMM.com]

Sent: Tuesday, September 30, 2008 5:04 PM

To: Worthington, McKay (Perkins Coie Brown & Bain); Pickett, Donn; Rocca, Brian

Cc: Herron, David; Vespremi, Roberta; Ozmun, Beth

Subject: AMD Document Production Proposal

Donn, McKay and Brian -

1 Set forth below is our attempt to memorialize the parties' discussions and agreements regarding AMD's document production in response to Intel's preservation-related discovery. This summary includes AMD's proposed list of key words. It also raises a few new but non-

controversial points that we doubt you will have any problem with. Please confirm as soon as possible; we would like to immediately tie this off so that AMD can get the document review in high gear and promptly complete production.

2 AMD has agreed to collect and review the email collections of five members of its IT department:

Redacted Subject to your input on search terms and the few new date-related issues we raise below, the parties agree to the following custodian-specific protocols:

3 Redacted Redacted AMD proposes using the following key words to locate potentially responsive data: **vault, journal, archive*, migrat*, EV, Enterprise, import*, PST, restor*, delete, fail*, reten*, retain, preserve*, instruc*, "nag notice"**. These key words focus on the aspects of AMD's preservation effort that involved these IT personnel: (1) the migration of designated custodians' PST files to the Enterprise Vault; and (2) assistance with those custodians' IT issues. Intel will review the key word list and suggest revisions or additions. Intel also reserves its right to add key words at a later time if there is good reason to believe that responsive documents exist but have not been captured by the terms, but we have agreed that both sides are now making best efforts at choosing key words in advance to avoid repeating this exercise.

4 The parties also agree to apply date restrictions to the data. For Redacted AMD proposes November 1, 2005-August 31, 2006 - the timeframe that AMD believes Padgett worked on Vault migrations. For Redacted AMD proposes beginning review at July 1, 2006 - the date around which AMD believes Redacted commenced her Vault migration work. For Redacted Redacted that we discussed yesterday, which is outlined below.

5 AMD will review the resulting data sets and produce non-privileged and non-core documents relating to: (1) the migration of designated custodians' email accounts and PST files to the Vault/Journal; or (2) any purported retention or data loss issues, either systemic or specific to designated custodians.

6 Redacted AMD will not apply a key word search to Redacted data. Instead, AMD will review Redacted entire email collection and produce non-privileged and non-core documents relating to the following subject matter: (1) the design and implementation of the Vault and Journaling systems; (2) the migration of designated custodians' email accounts and PST files to the Vault/Journal; (3) the restoration of Exchange dumpsters; and (4) any purported retention or data loss issues, either systemic or specific to designated custodians.

7 AMD will review Redacted emails dated from March 1, 2005 through March 31, 2007. In addition, AMD agrees to search for and review any potentially responsive emails for two weeks beyond March 31, 2007 (i.e., through April 15, 2007) to the extent that they (1) relate to designated custodians who were enabled for Vault and Journaling after March 31, 2007; and (2) relate to their migration to the Vault/Journal or potential retention or data loss issues that existed prior to the custodians' journaling date. The applicable custodians are Redacted (4/7/07), Redacted (4/9/07), Redacted (4/9/07), Redacted (4/9/07), Redacted (4/9/07), Redacted (4/9/07), Redacted (4/9/07), and Redacted (4/12/07).

8 During our call yesterday, Intel proposed the March 31, 2007 cut-off noted above. We informed you that there is an existing dispute

between AMD and Intel regarding Intel's production of documents related to its own remediation/data loss/retention lapse issues in which, to summarize, Intel has imposed cut-off dates for documents in January and March 2007 as to its productions. By agreeing to this March 31, 2007 cut-off, AMD does not waive its right to production by Intel of preservation-related discovery after that date.

9. AMD is prepared to enter into an agreement with Intel regarding disclosure of non-core work product. We will need to work out the precise parameters of this agreement with you in the next few days. Eventually, AMD will want to reduce it to a stipulation to be filed with and approved by the Court. Let's set aside time to discuss this tomorrow or Thursday.

Please confirm that this correctly memorializes the parties' agreements about AMD's document production. If there are any minor issues to be worked out, let's please do that ASAP so that the document review and production will not be delayed.

Best,
Jeff

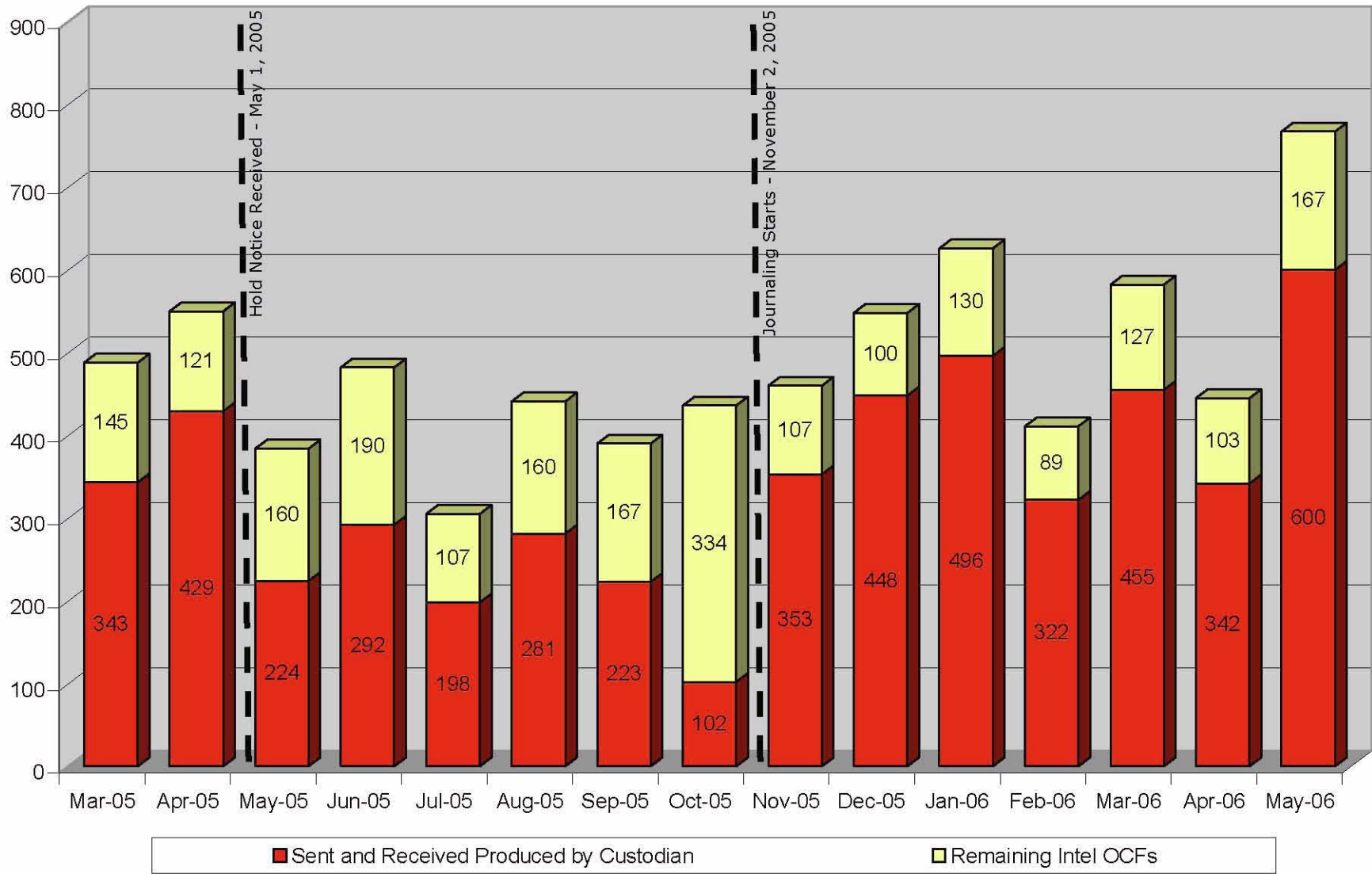
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EXHIBIT C

Redacted **Total Sent and Received Items - Before Backup Tape Restoration**



Redacted **Total Sent and Received Items - After Backup Tape Restoration**

