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February 9, 2009

**BY HAND DELIVERY AND  
ELECTRONIC FILING**

The Honorable Vincent J. Poppiti  
Special Master  
Bank Rome LLP  
Chase Manhattan Centre, Suite 800  
1201 North Market Street  
Wilmington, Delaware 19801-4226

REDACTED PUBLIC  
VERSION

Re: *Advanced Micro Devices, Inc., et al. v. Intel Corporation, et al.,*  
C.A. 05-441-JJF; C.A. 05-485-JJF; MDL No. 05-1717-JJF  
*Request for Issuance of Letters Rogatory*

Dear Judge Poppiti:

**I. Introduction.**

By this application, AMD requests that the Special Master recommend, on an expedited basis, that the District Court issue letters rogatory directed to the appropriate judicial authorities in France and Italy, respectively, requesting the production of certain documents in the possession of two European corporations, NEC Computers SAS (“NEC SAS”) and Acer Italy Srl (“Acer”). The documents are essential to a fair resolution of this case, and NEC SAS and Acer can readily identify and produce them with minimal burden.

**II. Factual Background.**

On July 26, 2007, the European Commission sent a Statement of Objections to Intel, charging that Intel had infringed rules under Article 82 of the EC Treaty prohibiting abuse of a dominant market position. See “Competition: Commission confirms sending of Statement of Objections to Intel,” dated July 27, 2007, available at <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/314&format=HTML&aged=1&language=EN&guiLanguage=en> (attached hereto as Exhibit A). The Statement of

Objections charged that Intel had engaged in anti-competitive conduct intended to exclude AMD from the x86 CPU market. *See id.*<sup>1</sup>

**REDACTED**

### **III. The Documents That AMD Seeks Are Highly Relevant.**

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<sup>1</sup> On July 17, 2008, the European Commission sent a Supplementary Statement of Objections charging that Intel had engaged in additional abuses aimed at excluding AMD from the x86 market. *See* “Antitrust: Commission confirms supplementary Statement of Objections sent to Intel, “dated July 17, 2008, available at <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/517&format=HTML&aged=0&language=EN&guiLanguage=en> (attached hereto as Exhibit B).

<sup>2</sup> AMD believes that NEC SAS is the corporate successor of NECCI.

<sup>3</sup> AMD will provide the Court with copies of the pages from the Statement of Objections that reflect the content of the NECCI and Acer factual submissions for its *in camera* inspection.

**REDACTED**

The items that AMD seeks represent a discrete universe of documents, and producing them in this case should impose only a minimal burden on NEC SAS and Acer.

**IV. The Special Master Should Recommend That the District Court Issue Letters Rogatory Requesting the Assistance Of the Appropriate Authorities In Obtaining The Requested Factual Submissions And Other Documents.**

The Special Master should recommend that the District Court issue letters rogatory to the French Ministry of Justice (the “French Ministry”) and the Italian Ministry of Foreign Affairs (the “Italian Ministry”) requesting that the French Ministry and the Italian Ministry, respectively, direct NEC SAS and Acer each to produce the documents listed on Schedule A to the [Proposed] Letters Rogatory lodged concurrently herewith (the “Requested Documents”). NEC SAS is, upon information and belief, a French business with the address Immeuble Optima, 10 Rue Godefroy, 92821 Puteaux Cedex, France. Acer is, upon information and belief, an Italian business with the address Via Lepetit, 4020020 Lainate (MI), Italy.

A letter rogatory invokes the assistance of foreign central authorities in compelling production of documents pursuant to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, *concluded* March 18, 1970 (the “Hague Evidence Convention”). Article 1 of the Hague Evidence Convention permits a U.S. court to issue a letter rogatory to obtain the assistance of French and Italian authorities in obtaining evidence located in France and Italy. Hague Evidence Convention, art. 1. The Federal Rules of Civil Procedure authorize the Court to issue a “letter of request, whether or not captioned a ‘letter rogatory’ on appropriate terms after an application and notice of it.” Fed. R. Civ. P. 28(b). *See also* 28 U.S.C. § 1781 (providing that the Department of State has the power to transmit a letter rogatory or request directly from a tribunal in the United States to a foreign tribunal or agency to whom it is addressed).

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For the reasons stated, AMD respectfully requests that the Special Master recommend that the District Court issue letters rogatory to the French Ministry and Italian Ministry so that AMD may obtain the Requested Documents from NEC SAS and Acer.

Respectfully,

*/s/ Chad M. Shandler*

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CMS/afg

cc: Clerk of the Court  
Richard L. Horwitz, Esquire