



WHEREAS, on May 9, 2008, the Special Master issued a Report and Recommendation granting AMD and Class Plaintiffs' motion to compel production of the Weil interview notes, finding Intel had "placed the accuracy and validity of its [Paragraph 8 Summaries] at issue, thus waiving the attorney-client privilege [that attached to the underlying Weil Gotshal interview notes]. However, waiver exists only as to those portions of the Weil summaries that reveal the substance of the custodian statements already voluntarily disclosed in the Paragraph 8 Summaries." (D.I. 903).

WHEREAS, on September 9, 2008, AMD moved for an order compelling ("September 9 Motion to Compel") Intel's compliance with the Court's March 16, 2007 Order Regarding Intel's Preservation Issues (D.I. 301) which required, among other things, Intel to submit a report which contains for each custodian a "detailed written description of the preservation issues affecting the Intel custodian, including the nature, scope and duration of any preservation issue."

WHEREAS, on January 23, 2009, the Special Master conducted a hearing on the September 9 Motion to Compel and entertained oral argument from Intel and AMD.

WHEREAS, at the January 23, 2009 hearing, the Special Master indicated his intent to direct Intel to provide additional information regarding the preservation issues affecting each individual custodian and directed the parties to meet and confer regarding the details and logistics for such disclosure.

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. By April 1, 2009, Intel shall disclose to the Court, AMD, and Class Plaintiffs all known "preservation issues" (subject to paragraph 2 below) affecting Intel Custodians (as that term is defined in the Special Master's March 15, 2007 Order) that were not disclosed in Intel's Paragraph 6, 7 and 8 summaries, the Weil


Gotshal interview notes or filings, depositions and/or correspondence (hereafter “Intel’s Updated Disclosures”). Intel shall work in good faith to meet the deadline described above, but reserves the right to request additional time if needed. AMD agrees to consider such request in good faith.

2. Intel’s Updated Disclosures shall disclose any known preservation issue affecting an Intel Custodian of which Intel’s counsel is aware, regardless of when and under what circumstances said information became known and regardless of whether that information was learned by Weil Gotshal, Intel inside counsel or one of the law firms that is Intel’s counsel of record in this case.
3. For each preservation issue disclosed by Intel pursuant to Paragraph 1 hereof, Intel shall take reasonable steps to provide a comprehensive written summary that includes all relevant facts concerning the nature, scope, and duration of the preservation issue.
4. As used in this order, a “preservation issue” shall be defined as any Custodian’s failure to preserve responsive documents, whether that failure was caused by the manual or automatic deletion of responsive documents and/or by the passive failure to save or archive responsive documents, at any time from the filing of the complaint against Intel until the date on which the Custodian was placed on journaling. Intel’s Updated Disclosures shall be limited to facts regarding preservation issues.
5. If known, Intel shall disclose the subject matter of any responsive email or document that a custodian failed to preserve. This disclosure obligation does not include knowledge of the subject matter of any responsive email or document a

Custodian failed to preserve that was repopulated through Intel's remediation efforts.

6. Intel's Updated Disclosures, Intel's Paragraph 6, 7 and 8 Summaries, and the Weil Gotshal interview notes (as produced to AMD) shall constitute Intel's party admissions under Federal Rule of Evidence 801(d)(2) without prejudice to any non-hearsay objection Intel may make to the admissibility of these documents.
7. Nothing contained in Intel's Updated Disclosures, nor any activities undertaken by Intel for purposes of complying with this Order, shall be deemed to constitute a waiver of the attorney-client privilege or a waiver of attorney work product protection.

ENTERED this 10 day of March, 2009



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Vincent J. Poppiti (#100614)  
Special Master