



WHEREAS, Amended Case Management Order No. 6, entered on June 20, 2008, collectively allocated 2,086 hours of merits depositions, giving AMD and Class Plaintiffs 1,147 hours and Intel 939 hours; and

WHEREAS, depositions in this case have required the collection, organization and analysis of an unprecedented volume of documents, now totaling approximately twenty million party-produced documents and over two million third-party documents — a combined production amounting to approximately 5 terabytes of data, in paper form, enough to fill 5,000 pick-up trucks; and

WHEREAS, over the past several months, the parties have found it necessary to supplement their productions multiple times with over a quarter of a million additional documents -- productions required in order to remedy vendor-created and other problems with the original production or, in some instances, to produce material not originally requested or produced -- including Intel's production of approximately 75,000 additional documents on December 26, 2008, and approximately 42,000 additional documents on February 11 and 16, 2009, and AMD's production of approximately 65,000 additional documents in November and December 2008; and

WHEREAS, a significant number of important third parties have produced documents later than anticipated including:

- (1) HP, currently the world's largest computer Original Equipment Manufacturer ("OEM"), which did not make its first production until September 12, 2008, and followed up with supplemental productions on December 13, 2008 and February 5, 2009;
- (2) Acer, another multinational OEM and the owner of the Gateway and eMachines brands, which though subpoenaed in October 2005, did not produce documents until December 12, 2008;

- (3) Ingram, a very large international components distributor, which did not produce its documents until December 16, 2008;
- (4) Synnex, another global components distributor, which did not produce its documents until September 25, 2008;
- (5) Fujitsu, a Japanese OEM with worldwide operations, which though subpoenaed in July 2005, made its first custodian production in September 2008 and made a larger supplemental production on February 14, 2009;
- (6) NEC, another very large Japanese OEM, which though subpoenaed in September 2005, made a partial custodial production in October 2008 and has not yet completed its production; and
- (7) Sony, another international Japan-based OEM, which though subpoenaed in October 2005, made its custodial production in early January 2009; and

WHEREAS, due to the sheer volume and timing of documents produced by the parties and third parties, the parties were unable to stage broad-based deposition discovery as early in the deposition window as they originally anticipated (in contrast, the parties collectively conducted thirty-two days of deposition in January and forty-five days in February (with as many as six depositions being conducted in a single day), and have thus far scheduled seventy-two days for March); and

WHEREAS, scheduling depositions has been more daunting than the parties originally thought, particularly with regard to the parties' former employees and third party witnesses, with the result that 40 of the 91 depositions thus far taken have commenced outside the thirty-day window contemplated by Case Management Order No. 6; and

WHEREAS, given the unprecedented size of both the party and non-party document productions, the complexity of the transactions they document, and the need

for interpreters, the pace of deposition has been slower than anticipated with party depositions averaging nearly 11 hours (effectively, two days) and non-party depositions averaging more than 9 hours (one and a half days); and

WHEREAS, during the course of review of both the late and supplemental productions, as well as during the depositions thus far conducted, important witnesses have come to light not originally thought by the parties to be deposition candidates; and

WHEREAS, the parties agree that an additional six weeks and roughly ten percent more deposition time (150 hours for plaintiffs and 122 for Intel) will be required to permit the parties to adequately gather evidence for trial; and

WHEREAS, the parties further agree that, subject to the approval of the Court, all other case deadlines should be extended by a commensurate number of weeks, including the trial date;

NOW, THEREFORE, IT IS HEREBY STIPULATED BY AND AMONG AMD, CLASS PLAINTIFFS, AND INTEL, THROUGH THEIR RESPECTIVE COUNSEL, AND SUBJECT TO THE APPROVAL OF THE COURT, AS FOLLOWS:

1. The deadlines set forth in Case Management Order No. 5 all shall be extended by a period of six weeks such that:

a. Fact discovery in the above-captioned actions shall conclude on Friday, June 12, 2009.

b. AMD will serve its expert witness reports in the AMD Action on Monday, July 20, 2009.

c. Intel will serve its expert witness reports in the AMD Action on Monday, September 7, 2009.

d. AMD will serve any rebuttal expert witness reports in the AMD Action on Thursday, October 1, 2009.

e. Expert witness depositions in the AMD Action shall occur between Friday, October 2, 2009 and Friday, November 27, 2009. This stipulation shall not alter the parties' agreement to cooperate in the scheduling of expert witness depositions such that expert witnesses expected to submit declarations relating to summary judgment motions are deposed as early as possible in the expert disposition period.

f. Any motion for summary judgment in the AMD Action will be filed on or before November 2, 2009. All briefing related to any summary judgment motion(s) shall be completed by December 14, 2009.

g. The Pre-Trial Conference in the AMD Action shall occur on [December 17, 2009 at 12 Noon]. A second Pre-Trial Conference may be scheduled at the discretion of the Court.

h. Trial in the AMD Action shall commence on Monday, [March 29, 2010 at 9:30 a.m].

2. Paragraph 1.f. of Case Management Order No. 6 is modified to provide as follows: "The parties are collectively allocated 2,358 hours of merits depositions exclusive of expert depositions. AMD and Class Plaintiffs are collectively allocated 1,297 hours; Intel is allocated 1,061 hours. For scheduling purposes, a full day of deposition shall consist of 7 hours of examination."

Dated: March 24, 2009

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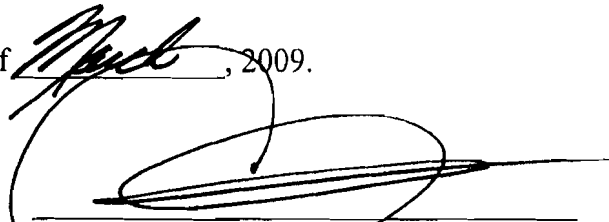
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Having read and considered the foregoing Stipulation and Proposed Order  
Modifying CMO No. 5 Regarding Case Deadlines And CMO No. 6 Regarding  
Depositions, the Special Master **HEREBY RECOMMENDS THAT THE COURT  
ADOPT SAME.**

ENTERED this 24 day of March, 2009.

  
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Vincent J. Poppiti (DSBA No. 100614)  
Special Master

SO ORDERED this 14 day of April, 2009.

  
\_\_\_\_\_  
United States District Court Judge