

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

IN RE)
INTEL CORPORATION)
MICROPROCESSOR ANTITRUST)
LITIGATION)

MDL No. 05-1717-JJF

ADVANCED MICRO DEVICES, INC., a)
Delaware corporation, and AMD)
INTERNATIONAL SALES & SERVICES, LTD.,)
a Delaware corporation,)

Plaintiffs,)

v.)

C.A. No. 05-441-JJF

INTEL CORPORATION, a Delaware corporation,)
and INTEL KABUSHIKI KAISHA, a Japanese)
corporation,)

Defendants.)

PHIL PAUL, on behalf of himself)
and all others similarly situated,)

Plaintiffs,)

v.)

C.A. No. 05-485-JJF

CONSOLIDATED ACTION

INTEL CORPORATION,)

Defendants.)

**STIPULATION AND PROPOSED ORDER REGARDING
ADMISSIBILITY OF DELL REBATE DATA**

PUBLIC VERSION

WHEREAS, this action was commenced on June 27, 2005 by plaintiffs Advanced Micro Devices, Inc. and AMD International Sales & Service, Ltd. (hereafter jointly, "AMD") against defendants Intel Corporation and Intel Kabushiki Kaisha (hereafter jointly, "Intel");

WHEREAS, coordinated class actions filed by purchasers ("Class Plaintiffs") are also pending in this District against Intel pursuant to a November 3, 2005 order of the Judicial Panel on Multidistrict Litigation;

WHEREAS, AMD and Class Plaintiffs have each served a subpoena on third party Dell Corporation ("Dell") requesting the production of data on rebates Dell has received from Intel;

WHEREAS, in response to AMD's and Class Plaintiffs' subpoenas, Dell produced the attached Exhibit A (Bates Stamped DEL-FI0416909-00001-02) identifying: (1) Dell's Total MCP and Non-MCP Income Statement Accruals reflecting Dell's accruals on its Income Statements for rebates Dell received from Intel (not including any funding under the Intel Inside Program), by quarter, during the period from the first quarter of Dell's fiscal year 2003 through the fourth quarter of Dell's fiscal year 2007 ("Dell's Total Rebates Accruals"); (2) Dell's MCP COGS Category Breakout (by Markdowns, Bid Buckets, Topside, Other and Total MCP COGS) reflecting Dell's allocation of the portion of the MCP rebates Dell received from Intel that Dell applied to Cost Of Goods Sold ("COGS"), by quarter, during the period from the first quarter of Dell's fiscal year 2003 through the fourth quarter of Dell's fiscal year 2007 ("Dell's MCP COGS Category Breakout"); and (3) Dell's Total Credit Memos reflecting Dell's accruals for credit memos relating to MCP and non-MCP rebates Dell received from Intel (not including any funding under the Intel Inside Program), by quarter, during the period from the first quarter of Dell's fiscal year 2003 through the fourth quarter of Dell's fiscal year 2007 ("Dell's Credit Memos Data");

WHEREAS, Dell's Total Rebates Accruals is contained in the chart entitled "Total MCP + Non-MCP Income Statement Accruals" on the attached Exhibit A;

WHEREAS, Dell's MCP COGS Category Breakout is contained in the chart entitled "MCP COGS Category Breakout" on the attached Exhibit A;

WHEREAS, Dell's Credit Memos Data is contained in the chart entitled "Credit Memos" on the attached Exhibit A;

WHEREAS, the parties to this Stipulation do not object to the use of Dell's Total Rebates Accruals, Dell's MCP COGS Category Breakout and Dell's Credit Memos Data at trial, during other Court proceedings (including but not limited to at summary judgment) and at depositions.

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

1. Dell's Total Rebates Accruals is an authentic record of the total amount of MCP and Non-MCP rebates from Intel (not including any funding under the Intel Inside Program) that Dell accrued on its Income Statements, by quarter, during the period from the first quarter of Dell's fiscal year 2003 through the fourth quarter of Dell's fiscal year 2007.

2. Dell's Total Rebates Accruals is a record of regularly conducted activity within the meaning of Rule 803(6) of the Federal Rules of Evidence, and the parties to this Stipulation agree that they will not object to its admissibility based upon the hearsay rule.

3. Dell's Total Rebates Accruals is admissible evidence of the total amount of MCP and Non-MCP rebates from Intel (not including any funding under the Intel Inside Program) that Dell accrued on its Income Statements, by quarter, during the period from the first quarter of Dell's fiscal year 2003 through the fourth quarter of Dell's fiscal year 2007.

4. Notwithstanding this Stipulation, any party may seek to offer other evidence that may contradict or otherwise call into question the accuracy of Dell's Total Rebates Accruals.

5. Dell's MCP COGS Category Breakout is an authentic record of the category breakout (by Markdowns, Bid Buckets, Topside, Other and Total MCP COGS) of how Dell applied the portion of the MCP rebates Dell received from Intel that Dell applied to COGS, by quarter, during the period from the first quarter of Dell's fiscal year 2003 through the fourth quarter of Dell's fiscal year 2007.

6. Dell's MCP COGS Category Breakout is a record of regularly conducted activity within the meaning of Rule 803(6) of the Federal Rules of Evidence, and the parties to this Stipulation agree that they will not object to its admissibility based upon the hearsay rule.

7. Dell's MCP COGS Category Breakout is admissible evidence of the category breakout (by Markdowns, Bid Buckets, Topside, Other and Total MCP COGS) of how Dell applied the portion of the MCP rebates that Dell received from Intel that Dell applied to COGS, by quarter, during the period from the first quarter of Dell's fiscal year 2003 through the fourth quarter of Dell's fiscal year 2007.

8. Notwithstanding this Stipulation, any party may seek to offer other evidence that may contradict or otherwise call into question the accuracy of Dell's MCP COGS Category Breakout.

9. Dell's Credit Memos Data is an authentic record of the amounts of Credit Memos reflecting MCP and non-MCP rebates Dell received from Intel, by quarter, during the period from the first quarter of Dell's fiscal year 2003 through the fourth quarter of Dell's fiscal year 2007.

10. Dell's Credit Memos Data is a record of regularly conducted activity within the meaning of Rule 803(6) of the Federal Rules of Evidence, and the parties to this Stipulation agree that they will not object to its admissibility based upon the hearsay rule.

11. Dell's Credit Memos Data is admissible evidence of Dell's accruals for credit memos relating to MCP and non-MCP rebates Dell received from Intel (not including any funding under the Intel Inside Program), by quarter, during the period from the first quarter of Dell's fiscal year 2003 through the fourth quarter of Dell's fiscal year 2007.

12. Notwithstanding this Stipulation, any party may seek to offer other evidence that may contradict or otherwise call into question the accuracy of Dell's Credit Memos Data.

13. This Stipulation shall not be deemed an admission by any party and shall not itself be admissible evidence.

14. The parties reserve all objections to the admissibility of Exhibit A (Bates Stamped DEL-FI0416909-00001-02) only to the extent that a party offers it into evidence for a purpose outside the scope of this stipulation.

Dated: May 1, 2009

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