



1313 North Market Street
P.O. Box 951
Wilmington, DE 19899-0951
302 984 6000

www.potteranderson.com

W. Harding Drane, Jr
Partner
Attorney at Law
wdrane@potteranderson.com
302 984-6019 Direct Phone
302 778-6019 Fax

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By Hand & CM/ECF

The Honorable Vincent J. Poppiti
Fox Rothschild LLP
Citizens Bank Center
919 North Market Street, Suite 1300
Wilmington, DE 19899-2323

Re: Advanced Micro Devices, Inc., et al. v. Intel Corporation, et al., C.A. No. 05-441-JJF; In re Intel Corporation, C.A. No. 05-MD-1717-JJF Scope and Duration of Further Depositions Ordered June 22, 2009

Dear Judge Poppiti:

We write to advise Your Honor with regard to Intel's upcoming Court-ordered depositions. The parties were able to reach agreement regarding the dates and locations for these depositions. Additionally, Intel has offered to take Mr. Meeker's deposition telephonically, since his testimony is limited to two questions. The parties have not, however, reached agreement as to the scope and duration of the depositions.

Scope: Intel seeks only to conduct reasonable discovery in accordance with the Court's order. AMD disagrees with Intel as to the scope of reasonable follow-up regarding the date of its reasonable anticipation of litigation

Your Honor ruled that "when [AMD] first became aware that litigation was likely" is "not protected by the attorney/client privilege."¹ Accordingly, Your Honor ordered that AMD answer a number of questions about this topic, such as "[w]hen did AMD become aware of Intel contracts that AMD disputed as anticompetitive?" and "[w]hat factual circumstances was AMD aware of that led to the decision to commence litigation?"² Intel intends to ask these questions as well as reasonable follow-up as identified in its June 18, 2009 letter to Mr. Samuels:

Intel is interested in learning the date AMD first learned certain facts alleged in its Complaint. If it is not possible to identify a specific date, we expect AMD to provide a reasonable estimate, or at least to confirm or deny whether AMD knew the information as of certain date(s) preceding the filing of the Complaint that Intel

¹ Exhibit G, 6/15/09 Hearing Tr. 24:4-5.

² Question Nos. 41 & 98.

may reference during the deposition – specifically, November 2004, January 2005, February 2005, and/or March 2005.

Intel will be asking about the following OEMs and allegations referred to in AMD's Complaint: Sony (¶ 40); HP (¶¶ 64, 80); Dell (¶ 38, 39); IBM/Lenovo (¶¶ 52, 76, 81, 84); Acer (¶¶ 79, 86); and Gateway/eMachines (¶ 50).

We expect AMD to discuss these issues in advance of the deposition with: (1) the AMD employees responsible for the OEMs listed above, (2) relevant members of AMD's management team who are ultimately responsible for these types of business relationships; and (3) the sources of information AMD used as a factual basis for making the allegations noted above. We are confident that AMD has also identified during the course of this case (*e.g.*, during deposition preparation) certain documents that help identify the timing of AMD's knowledge of these issues.

AMD characterizes Intel's letter as a "laundry list of burdensome tasks" which it believes is somehow forestalled by the Court ordering question 93 be answered via interrogatory.³ AMD cannot have it both ways. Intel's letter was in direct response to AMD's expressed concern over preparing a witness to answer the questions that were ordered and Your Honor's suggestion that it would be helpful for Intel to give a "better preview."⁴ Intel did, and the questions Intel intends to ask are clear, limited, reasonably follow-up to questions granted by the Court and squarely within Topic 4 of Intel's Rule 30(b)(6) notice.

AMD refuses to prepare or produce a witness to answer these follow-up questions, asserting that they were waived when not previously asked in the face of AMD's instructions not to answer similar questions.⁵ AMD ignores the fact that several of the questions it has now been ordered to answer were foundational, and Intel is entitled to reasonable follow-up.⁶ Once AMD refused to answer these foundational questions about the Complaint, it would have been futile to inquire further pending Your Honor's ruling. Had AMD answered them in the first place, as Your Honor ruled AMD should have, the logical and reasonable follow-up would have included asking when and how AMD learned certain other key facts alleged in its complaint. AMD should not be rewarded for its intransigence.

Duration: Intel requests six hours to conduct follow-up depositions of AMD's four witnesses. This represents Intel's best estimate of the time necessary to address the 53 questions the Court has ordered and to conduct reasonable follow-up. During Intel's initial Rule 30(b)(6)

³ Exhibit E, 7/2/09 Letter to Mr. Pickett.

⁴ Exhibit G, 6/15/09 Hearing Tr. 34:23 - 35:1; 36:5-6.

⁵ Exhibit E, 7/2/09 Letter to Mr. Pickett.

⁶ *See, e.g.*, Question Nos. 41 & 98.

depositions, Intel was foreclosed from entire lines of questioning and from exploring certain documents with witnesses. Establishing a foundation for the questions ordered by the Court and exploring limited follow-up will take some time. AMD's suggestion that two hours would be "ample time" is unrealistic.² Intel should be allotted the full six hours in order to effectuate the Court's order.

Respectfully,

/s/ W. Harding Drane, Jr.

W. Harding Drane, Jr.

WHD:cet

cc: Clerk of Court (via Hand Delivery)
Counsel of Record (via CM/ECF & Electronic Mail)

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² Exhibit B, 6/30/09 Letter to Mr. Pickett.