

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE)
INTEL CORP. MICROPROCESSOR)
ANTITRUST LITIGATION) MDL Docket No. 05-1717-JJF
_____)
ADVANCED MICRO DEVICES, INC., a)
Delaware corporation, and AMD)
INTERNATIONAL SALES & SERVICE LTD,)
a Delaware corporation,,)
)
Plaintiffs,)
) Civil Action No. 05-441-JJF
v.)
)
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,)
) Civil Action No. 05-485-JJF
v.)
) CONSOLIDATED ACTION
INTEL CORPORATION,)
)
Defendant.)

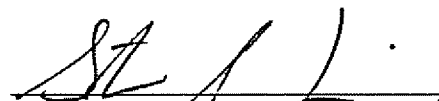
RESPONSE OF AMD AND CLASS PLAINTIFFS TO UNOPPOSED MOTION OF DEFENDANTS INTEL CORPORATION AND INTEL KUBUSHIKI KAISHA FOR LEAVE TO SERVE A SUBPOENA *DUCES TECUM* ON ATI TECHNOLOGIES, INC.

On August 10, 2006, Intel filed an “Unopposed Motion for Leave to Serve A Subpoena *Duces Tecum* on ATI Technologies.” [D.I. 199 (C.A. No. 05-441); 256 (C.A. No. 05-1717)]. AMD and the class plaintiffs respond, not to oppose the motion, but to explain the basis of their non-opposition.

Paragraph 5(g) of Case Management Order #1 [D.I. 123 (C.A. No. 05-441); 79 (C.A. No. 05-1717)] imposed a cut-off of June 15 (later extended to June 22 [D.I. 168 (C.A. No. 05-441); 144 (C.A. No. 05-1717)] for service of certain third-party document subpoenas. Intel assumes that its ATI subpoena falls within the Paragraph 5(g) definition, and therefore seeks to be excused from its operation.

But Paragraph 5(g) only applies to “subpoenas *duces tecum* to corporate third parties requiring a comprehensive production of their relevant documents.” As sweeping as the ATI subpoena may be concerning the subjects it addresses, it is generally confined to documents generated in connection with the AMD-ATI merger, not all documents in ATI’s files that may be relevant to this lawsuit. Thus, in the view of AMD and the class plaintiffs, the ATI subpoena does not qualify as one seeking “a comprehensive production of [all of ATI’s] relevant documents” and therefore could have been served without leave.

AMD and class plaintiffs do not oppose the ATI subpoena, not because they view all the discovery sought as appropriate, but because of the inapplicability of Paragraph 5(g). Like Intel, they too expect from time-to-time to serve additional corporate third-party subpoenas seeking targeted document discovery concerning specific issues that may arise during the course of the litigation (as opposed to broad-based discovery requiring the third party to make a comprehensive production of all potentially relevant documents). Unless the Court instructs otherwise, they do not intend to seek leave in these situations.



Jesse A. Finkelstein (#1090)
finkelstein@rlf.com
Frederick L. Cottrell, III (#2555)
cottrell@rlf.com
Chad M. Shandler (#3796)
shandler@rlf.com
Steven J. Fineman (#4025)
fineman@rlf.com
Richards, Layton & Finger
One Rodney Square
920 North King Street
Wilmington, DE 19801

Chuck Diamond
Linda Smith
Mark Samuels
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, CA 90071-2899

*Counsel for Advanced Micro Devices, Inc. and
AMD International Sales & Services, Ltd.*

Dated: August 11, 2006

/s/ James L. Holzman (#663)

James L. Holzman (#663)
jlholzman@prickett.com
J. Clayton Athey (#4378)
jcathey@prickett.com
Prickett Jones & Elliott, PA
1310 King Street
P. O. Box 1328
Wilmington, DE 19899

*Interim Liaison Counsel and Attorneys for
Phil Paul, on behalf of himself and all others
similarly situated*

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2006, I electronically filed the foregoing document with the Clerk of Court using CM/ECF and have sent by Hand Delivery to the following:


Richard L. Horwitz, Esquire
W. Harding Drane, Jr., Esquire
Potter Anderson & Corroon LLP
1313 North Market Street
P. O. Box 951
Wilmington, DE 19899

Robert D. Goldberg, Esquire
Biggs and Battaglia
921 North Orange Street
Wilmington, DE 19899-1489

and have sent via electronic mail to the following non-registered participants:

Darren B. Bernhard, Esquire
Howrey LLP
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004-2402

Robert E. Cooper, Esquire
Daniel S. Floyd, Esquire
Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, California 90071-3197


Steven J. Fineman (#4025)
Richards, Layton & Finger, P.A.
One Rodney Square
P.O. Box 551
Wilmington, Delaware 19899
(302) 651-7700
Fineman@rlf.com