

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ADVANCED MICRO DEVICES,)	
)	
Plaintiffs,)	Civil Action No.
)	05-441-JJF
v.)	
)	
INTEL CORPORATION,)	
)	
Defendant.)	

Teleconference in above matter taken pursuant to notice before Renee A. Meyers, Registered Professional Reporter and Notary Public, in the offices of Blank Rome, LLP, 1201 North Market Street, Wilmington, Delaware, on Tuesday, February 26, 2008, beginning at approximately 4:00 p.m., there being present:

BEFORE:

THE HONORABLE VINCENT J. POPPITI, SPECIAL MASTER

APPEARANCES:

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Teleconference

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1 SPECIAL MASTER POPPITI: Let's circle
2 back and see if, beginning with the Class, please.

3 MR. HOLZMAN: Jim Holzman, Prickett,
4 Jones. Also on the phone with me is Michael Lehman of
5 the Cohen, Milstein firm.

6 SPECIAL MASTER POPPITI: Thank you,
7 Mr. Holzman.

8 MR. HOLZMAN: Yes, sir.

9 SPECIAL MASTER POPPITI: And from AMD,
10 please.

11 MR. SHANDLER: Your Honor, it's Chad
12 Shandler from Richards, Layton & Finger.

13 SPECIAL MASTER POPPITI: Thank you,
14 Mr. Shandler.

15 MR. SAMUELS: Your Honor, Mark Samuels
16 from AMD from O'Melveny & Myers from AMD, and with me on
17 the line are Beth Osmond, in-house at AMD, and James
18 Pearl.

19 SPECIAL MASTER POPPITI: Thank you, sir.

20 MR. HORWITZ: Good afternoon, Your
21 Honor. It's Rich Horwitz at Potter, Anderson for Intel.

22 SPECIAL MASTER POPPITI: Thank you,
23 Mr. Horwitz.

24 MR. HORWITZ: I will let the others

1 introduce themselves.

2 SPECIAL MASTER POPPITI: Thank you.

3 MR. LEVY: Again, Your Honor, it's Rich
4 Levy in Los Angeles. Good afternoon. We have Bob
5 Cooper, Kay Kochenderfer are also with me and Josh Stokes
6 and Carol Silverberg who are going to be prepared to
7 discuss the issues at the conclusion of this first
8 motion.

9 SPECIAL MASTER POPPITI: Thank you. And
10 I do appreciate your accommodation of my request to also
11 discuss issues related to 4A, but we will do that after
12 your arguments on 4B.

13 So, with that, please, let's proceed
14 with 4B.

15 MR. SAMUELS: Your Honor, it's Mark
16 Samuels. If I may begin? I don't have a lot to add to
17 the papers. As Your Honor has seen, we are faced with
18 assertions by Intel that the practices they engaged in in
19 terms of evidence preservation here are consistent with
20 their procedures for prior litigations and represent what
21 they claim to be of best practices.

22 Your Honor, in a deposition that,
23 30(b)(6) deposition that we took several weeks ago, at
24 which Mr. Friedberg was also in attendance, we were faced

1 with dozens of instructions by Intel counsel to its
2 witness not to answer questions as to Intel's past
3 litigation and preservation practices, the content of
4 what were identified as standard litigation operating
5 procedures apparently available on the Intel Intranet,
6 and questions asking the witness to compare practices in
7 this case with practices in other cases.

8 SPECIAL MASTER POPPITI: Counsel, I want
9 you to be mindful of the fact that I am aware of the fact
10 that the depositions occurred and I have some familiarity
11 with your representation that, in fact, the
12 attorney/client and perhaps work product privilege were
13 also interposed with respect to various questions.

14 MR. SAMUELS: Very good, Your Honor.
15 Then I won't belabor this.

16 What we are interested in finding out
17 from a witness is a lot of information that goes to the
18 question of whether and to what extent Intel's practices
19 here were consistent or inconsistent with practices in
20 other cases. And let me just give you a few examples.

21 Intel has -- by the way, Your Honor, is
22 this a confidential transcript? I don't want to put
23 confidential information --

24 SPECIAL MASTER POPPITI: It certainly

1 can be a confidential transcript mindful of the fact that
2 the call in number was not a number that is screened, so
3 I can't represent to you that the call is being monitored
4 for purposes of being confidential.

5 MR. SAMUELS: Well, Your Honor, in an
6 abundance of caution, I am not going to go into the
7 specific issues that we made inquiry of and were blocked
8 in our attempt to find out what Intel's standard
9 practices are and deviations from them. Just it suffices
10 to say that we feel like it's highly relevant, the case
11 law seems to us to be clear about the relevance, and it
12 seems to us that we ought to be able to get at this
13 evidence. If there is any work product involved, we have
14 an agreement with them about waiving privilege for
15 non-core work product. At most, this is what this seems
16 to be and we would like the opportunity to inquire into
17 it.

18 SPECIAL MASTER POPPITI: Let me just
19 pose a few questions, and it may that be I am taking some
20 arrows out of Intel's quibble, and if I am, I apologize
21 for that.

22 No. 1, talk to me, just a bit, about the
23 issue of the auto delete and the concern that was
24 originally raised in the motion about your having the

1 representation under oath that Intel has not ever used
2 auto delete when -- has not ever turned off auto delete
3 when a litigation hold has been put into place?

4 MR. SAMUELS: Well, we did get that
5 testimony from one of the 30(b)(6) witnesses. We were
6 blocked in any attempt to go beyond that single yes, no
7 question.

8 The motion, as we framed it, it relates
9 to topics one and two in our deposition notice. Topic
10 one doesn't even, I am not sure it even uses the term
11 "auto delete." It asks for testimony on the existence,
12 nature, and details of any standard Intel corporate
13 evidence preservation policies and practices applied in
14 connection with actual or threatened litigation or
15 government or internal investigations.

16 And there is, apparently, we got out
17 this much, there is, apparently, on the Intel Intranet
18 such a set of standard operating practices, and what they
19 contain and how they compare to what Intel did in this
20 case is a mystery to us at this point.

21 SPECIAL MASTER POPPITI: Please help me
22 with that because I do not believe, and if it's been in
23 front of me, I sincerely apologize, but I certainly don't
24 believe I have been presented with any actual recitation

1 of procedures and/or policies in conjunction with the
2 presentation of either this motion or in conjunction with
3 the production of any other documents perhaps related to
4 the initial discussions surrounding the whole remediation
5 plan process.

6 MR. SAMUELS: Well, Your Honor, at the
7 deposition, for example, we asked questions about whether
8 Intel has practices about issuing periodic reminders to
9 custodians about their document preservation obligations
10 and practices about requiring positive responses from
11 custodians about -- in response to those reminders.

12 We asked about Intel's practices in
13 terms of providing larger mailboxes for custodians who
14 would have long-term preservation obligations. We asked
15 about practices of using paralegals to write preservation
16 instructions. We asked about standard harvest
17 instructions for litigation. All of those topics are
18 embraced in topic No. 1 of our deposition notice and we
19 have not been allowed to make any inquiry into them.

20 SPECIAL MASTER POPPITI: And the, just
21 identifying those three or four areas that you have
22 identified, are you suggesting that with respect to each
23 of those areas, the attorney/client privilege was
24 interposed?

1 MR. SAMUELS: Yes, I believe so. And
2 many other topics as well, Your Honor.

3 MR. LEVY: But the answer to the
4 question you asked is, Have you been presented with any
5 of this?, and the answer is, No, that is not part of
6 these moving papers. The fact is, I think the Court
7 rightly inquired about the initial moving paper which
8 focused just about exclusively on the issue of the auto
9 delete representation that we thought we were putting to
10 bed with the representation that it hadn't been done. It
11 hadn't been turned off before.

12 I will wait my turn, but the question
13 you asked was, No, those documents have not been
14 presented to you nor any of the testimony from those
15 depositions.

16 SPECIAL MASTER POPPITI: And I
17 understand, perhaps, the reason why you wanted to briefly
18 jump in there.

19 Let me just offer an observation. It
20 does seem to me that, although I understand the initial
21 request that the motion was filed with respect to, in
22 other words, the description of matters on which
23 examination was expected or required, and, yet, I think
24 it's fair to say that the focus, certainly my focus

1 during the course of reading the documents that you have
2 provided in conjunction with the motion were documents
3 that were focused on auto delete.

4 Now, I don't mean to suggest to you that
5 I went in with blinders and there was nothing else that I
6 should be aware of or considering. However, it seems to
7 me that if there are specific questions that have been
8 posed during the course of these 30(b)(6) depositions
9 where the attorney/client privilege has been interposed,
10 and if there is an issue with respect to those subject
11 matters by virtue of the attorney/client privilege being
12 interposed for specific questions, in order for me to
13 better, to understand it, to consider it, and to make
14 some decision or a finding and recommendation with
15 respect to it, it seems to me that the record has to be
16 developed in a fuller fashion.

17 I mean, I know we could all have a
18 general conversation about attorney/client privilege and
19 its application about attorney/client privilege and
20 whether or not it's been waived. Similarly, we could
21 have the same discussion about work product, if it
22 applies, I don't know whether it was interposed, and
23 whether it does apply or whether it's waived, and that
24 general discussion may prove to be interesting,

1 informative, educational, but it may have absolutely no
2 relation to what I am called upon to do here. And what I
3 found myself doing with respect to this application is I
4 really wondered where it was going.

5 For example, when the issue of auto
6 delete was raised and when Intel responded in the fashion
7 that it did, I really didn't consider Intel's offer, if
8 you will, to just say no. I didn't consider that to be a
9 flip response because it seemed to me that part of the
10 very tight focus to the application was, in fact, focused
11 on auto delete.

12 The other concern I have, and perhaps I
13 am jumping the gun a wee bit on Intel's side, is that if
14 I get beyond the issue of attorney/client privilege and
15 how it is being interposed with respect to the different
16 questions, and if I then entertain the opportunity to get
17 to information that I think no one will dispute is
18 relevant -- maybe I will hear Intel dispute that it is
19 relevant -- I think it's imperative for me to ask
20 questions based on the record that I don't have yet. And
21 those questions are really tightly framed by Rule 26(c)
22 which does say that it's the Court's responsibility to
23 make some proportionality determination when the Court
24 has some sense that there is a significant amount of

1 discoverable material that maybe out there measured
2 against the expectation of what it's going -- what it's
3 going to bear.

4 I mean, for example, I am mindful of the
5 fact that in about the year 2004 and after, entities
6 throughout the United States and elsewhere were being
7 forced to focus on how document retention policies should
8 be implemented, should be considered, constructed, and
9 implemented against the expectation that the Federal
10 Rules were going to change.

11 I am mindful of the fact that after
12 2004, entities similar to AMD and Intel were likely
13 given, and some have taken, and, indeed, Intel did take
14 the opportunity to offer comments regarding those
15 proposed changes to the Federal Rules.

16 I am mindful that a group of people got
17 together in the beautiful part of our country called
18 Sedona on at least one if not two if not three occasions
19 to squarely focus on issues involving e-discovery and all
20 the issues surrounding that. I am mindful of Zubulake
21 and what impact Zubulake had on the process.

22 Having said that, it seems to me that
23 it's going to be important for me to permit Intel to
24 build the Rule 26(b)(2)(C) record that I know I want to

1 be aware of before making any judgment about how --
2 whether you get to go beyond the litigation at hand,
3 meaning whether you get to go beyond, if you get there at
4 all because there is an attorney/client privilege
5 interposed, whether you get to go beyond what existed on
6 the day this lawsuit was filed, what Intel did either
7 consistent with or inconsistent with published or
8 purported practices, and what that means.

9 Now, having said all of that, I am just
10 not sure I have a -- I can approach either AMD's motion
11 on a consider re-framing and what I can expect to be
12 Intel's reply on the 26(c) issue, No. 1, and now, I would
13 expect, on an issue that really has certainly not been
14 developed in these papers, and that is on the
15 attorney/client privilege.

16 MR. SAMUELS: May I be heard, Your
17 Honor?

18 SPECIAL MASTER POPPITI: Yes, please.

19 MR. SAMUELS: Your Honor's comments are
20 quite helpful, and if Your Honor did not read our opening
21 papers as going beyond the auto delete issue, I
22 apologize. That was not our --

23 SPECIAL MASTER POPPITI: I didn't want
24 to suggest that I didn't read them as not applying, but

1 in terms of your focus, it was, the record is more
2 difficult for me to put my hands around when the moving
3 papers focus on a specific question and when Intel
4 responds to that specific question by saying, No, we
5 don't; no, we have never done it.

6 MR. SAMUELS: Right. And, Your Honor, I
7 certainly acknowledge that.

8 I think, now that we do have some of
9 these issues in sharper relief because we asked the
10 questions and drew the objections and instructions, I
11 think we can put together a more focused motion that will
12 place before you the questions that go to the prior
13 litigation practice, and then we will see what Intel says
14 about them.

15 SPECIAL MASTER POPPITI: I mean, I think
16 it's critically important for, certainly from my vantage
17 point, knowing where I sit in this litigation as a
18 conduit of either an ultimate decision that gets made
19 because it's accepted, or, literally, as a conduit of a
20 process involving something that gets served up to Judge
21 Farnan and discussed before him, and I am just very
22 concerned about the state of this record to do either.

23 MR. SAMUELS: Very well.

24 MR. LEVY: Your Honor, if I can just

1 comment, I appreciate the Court's comments. I, too, was
2 going to raise Rule 26(c) as well as 403 of the Evidence
3 Code with regard to some of these issues. What I would
4 -- and it does sound like what I think Mr. Samuels is
5 indicating is that we can expect to see a fuller motion
6 that addresses the specific issues that he has raised
7 earlier today.

8 What I do think is, it probably merits
9 some consideration is how that's going to be done, you
10 know, the idea that we and the stipulation that we
11 entered into concerning a motion that was done on a
12 four-page letter without any -- and then responded five
13 days later with a reply several days after that, I think
14 made a lot of sense as we thought about sort of discrete
15 discovery issues.

16 SPECIAL MASTER POPPITI: Right.

17 MR. LEVY: But right now, I think what
18 we are talking about here is two things, one of which you
19 know, which is the one you are looking at, which has to
20 do with, Gee, let's go over these issues regarding the
21 testimony together with this letter and so forth. And I
22 am wondering, and very frankly thinking that it ought to
23 be done on a formal motion basis, we could probably agree
24 with Mr. Samuels regarding some scheduling, but, quite

1 frankly, we are just, you know, we are inundated with an
2 awful lot of this, and I suspect he is, perhaps, too.
3 That's certainly one thought.

4 The other is Mr. Samuels brought to our
5 attention, at least his office has, the fact that they
6 intend to file another major motion with regard to other
7 issues that raised similar questions concerning privilege
8 and so forth.

9 It would be by my count, and my count is
10 probably wrong, about the fifth motion that arises out of
11 the discovery requests that they had made, and I don't
12 know that any of us really thought that there would be
13 sort of seriatim or continuing motions in connection with
14 that; in any event, I am not trying to preclude him from
15 making the motion, far from it. All I am suggesting is
16 that maybe the four-page motion on five days' notice or
17 with five days to respond is probably impractical for
18 these, at least for these two motions.

19 MR. SAMUELS: Your Honor, I certainly
20 agree, you know, to argue the -- to argue about specific
21 questions in a deposition where there were instructions,
22 I think doing it in four pages would, it would just force
23 a bunch of stuff into an appendix that would be unwieldy
24 and cumbersome.

1 SPECIAL MASTER POPPITI: I would agree
2 with that.

3 MR. SAMUELS: So if there is some other
4 way to do that, I think we would welcome it as well.

5 SPECIAL MASTER POPPITI: And I agree
6 with the both of you. And perhaps the most efficient way
7 to land on a process rather than taking up your time and
8 your resources with me now, is for you to confer about
9 that process, and certainly if you reach agreement, let
10 me know by appropriate communication. If I need to
11 polish that a bit, you know I won't hesitate to do that,
12 but I think that's probably the most efficient way to do
13 it.

14 MR. LEVY: That would be fine. Mark,
15 why don't you just send me an e-mail and let me know when
16 you want to have a telephone call on it and we can
17 perhaps just knock it out in that fashion.

18 MR. SAMUELS: That's fine, Rich. We
19 will just -- I am not sure we have gotten any of the
20 final transcripts yet, but as soon as we do, we will home
21 in on what we are -- what we will move on.

22 SPECIAL MASTER POPPITI: Are the
23 depositions with 30(b)(6) still ongoing on these topics
24 or is it over?

1 MR. LEVY: I believe the 30(b)(6)s, we
2 have about half a day left with the first witness, and,
3 otherwise, I think we are done.

4 SPECIAL MASTER POPPITI: I should have
5 known the answer to that, but I do apologize for not --
6 okay. Then let us approach it in that fashion. If it's
7 important for you to get me back on the phone to either
8 assist in the discussions, then I am more than happy to
9 do that.

10 MR. LEVY: And I don't want Mr. Samuels'
11 comment to go at least semi unchallenged. Our position
12 is that the deposition of Miss -- or at least our
13 30(b)(6) witness is concluded, but, again, I am sure he
14 and I will talk about that, and if there is a problem, it
15 will be brought to your attention.

16 SPECIAL MASTER POPPITI: That's fine.
17 So with respect to, then, to 4B, it's whatever materials
18 you filed, you may be referencing them again, but I need
19 not do anything further with those, with 4B until I hear
20 back from the both of you.

21 MR. SAMUELS: Very well, Your Honor.

22 SPECIAL MASTER POPPITI: Great. Thank
23 you.

24 Now, is everyone online that will be

1 talking about 4A processes?

2 MR. LEVY: From Intel's side, they are,
3 Your Honor.

4 SPECIAL MASTER POPPITI: Okay.

5 MR. SAMUELS: From and AMD as well, Your
6 Honor.

7 SPECIAL MASTER POPPITI: Great. Okay.

8 MR. HOLZMAN: And for the Class, Your
9 Honor.

10 SPECIAL MASTER POPPITI: Thank you very
11 much.

12 Let me do it this way, and it's
13 something that I thought was important, obviously, later
14 in the day than earlier, otherwise, I would have given
15 you better notice of it, other than -- I don't want to
16 anticipate what, if anything, will occur with the
17 deadline that is scheduled to pass tomorrow, but other
18 than with respect to those materials, I am ready to begin
19 what I will refer to as the selection process.

20 And as part of that process, you can
21 anticipate that it's going to be important for me to do
22 -- for a number of different things to happen and what I
23 am looking to you for is for your view as to how you
24 think it should happen. And while most of these -- most

1 of my questions may be questions squarely for Intel, they
2 are questions that need not be posed in an exparte
3 fashion.

4 The binders that I have are color coded
5 initially by Intel, as I have described for you before --
6 and if I haven't, please say that I haven't and I will
7 briefly describe them, but I believe I have in earlier
8 discussions that are on the record with both of you --
9 and once, for my process in going through, when I agreed
10 with Intel that certain documents should be redacted
11 because they were core, they were colored in green, for
12 example. And when I agreed with Intel that certain parts
13 of documents should be excluded because they had nothing
14 to do with this, they were colored in blue.

15 Now, certainly, when a master document
16 gets prepared, and there needs to be that preparation, I
17 am going to have to have a color copy of everything that
18 I have done.

19 My first question is this: I am
20 certainly in a position to have a color copy made of
21 everything that I have reviewed. The way that I would
22 have to do that would be for me to, the most efficient
23 way and the most cost effective way would be for me to
24 contract that work with what my colleagues at the local

1 Bar know to be Parcels, which is a entity here in
2 Wilmington and in Delaware that does that kind of work
3 for law firms. Were that to be the best way for me to
4 accomplish that, I would ask Intel to propose additional
5 language that they may want for purposes of saying to
6 that contracted entity, This is additional language with
7 respect to the protection of these documents.

8 Again, my friends at the local Bar know
9 that, I expect know that Parcels requires that all of its
10 employees sign a confidentiality document with them, and
11 certainly when law firms use them either in-house, as we
12 do here, or in their main office, as we frequently do,
13 those employees are bound by that confidentiality
14 document agreement, if you will. But I thought it was
15 important to suggest, if Intel wants something in
16 addition to that, that it can be done that way.

17 Alternatively, if Intel wants the
18 documents to be copied in a, using a different process,
19 I'd like to hear that.

20 MR. LEVY: Your Honor, I know that Intel
21 has, with us -- and if it's necessary for me to keep
22 identifying myself, I will be happy to do so, but if the
23 court reporter knows my voice, I will be happy to go
24 on -- it seems to me that we have from time to time run

1 into certain kinds of security problems that I know Intel
2 is quite sensitive to, and, so, there is one of two ways
3 we can do it. One is we can work out a process,
4 understanding that we would simply like a day to confer
5 and get back and confirm unless there is an issue, but
6 confirm that it's okay, but the second thought that I
7 had, and perhaps you have already thought about it and
8 discarded it, and if so, you will tell us, is that we
9 might be able to impose upon Mr. Horwitz and his firm to
10 gather up the documents that you have and make color
11 copies in-house that would probably solve any kind of
12 security issues that Intel might otherwise have.

13 SPECIAL MASTER POPPITI: I don't know
14 whether Mr. Horwitz wants to speak with respect to --

15 MR. LEVY: Maybe I just dumbfounded him.

16 MR. HORWITZ: Your Honor, we can take
17 that on and we can also talk with our client about
18 Parcels and then report back to you with what we believe
19 is the appropriate way to handle the documents. And,
20 obviously, we would include AMD and the Class in on any
21 communication to you about how we thought, between those
22 two options, would be the most appropriate way to handle
23 it.

24 Does AMD have any thoughts as to -- and

1 Class, please, as well.

2 MR. SAMUELS: I am sure whatever Intel
3 proposes will be reasonable and we will go with the flow
4 on this.

5 MR. ATHEY: The Class does likewise.

6 SPECIAL MASTER POPPITI: Then the other
7 piece of this is it has to do with the actual redaction
8 of the documents, themselves.

9 Expecting that it may be important for
10 that redaction to occur under, if I will, under my
11 supervision, one of the things that may result is once
12 redactions are in place, if you will, and when production
13 of those redacted documents, when that occurs, and I
14 realize we have some other things that need to be done
15 between when that event occurs and when actual production
16 occurs, unless we do something different with the
17 documents, and, that is, get back to the original
18 document, it will be apparent that, with respect to
19 certain documents, you will be able to see a decision
20 that says there is a proposed redaction and I have not
21 agreed with that because what you would see would be
22 portions of the page redacted, and perhaps another
23 portion of the page that is going to be in gray, if you
24 will, because that gray would have initially been in

1 yellow as a proposed redaction on -- or pink as a
2 proposed redaction on Intel's part. And I want you,
3 please, to think about the mechanics of that as well.

4 For example, if I say to Intel, This is
5 what I believe should be done by virtue of a finding and
6 recommendation, and ship it back to Intel to accomplish
7 the redaction, then the question may be, from AMD's point
8 of view, Well, okay, that's all well and good, but how
9 can we be assured that the redactions that were ordered
10 or recommended are, in fact, the redactions that occurred
11 without Vincent Poppiti going back through the things and
12 re-checking them again?

13 I don't think you want that, to shoulder
14 that expense unless it's necessary, and, certainly, you
15 would expect that I don't want to shoulder that
16 responsibility in terms of the tedium of it all unless it
17 is necessary. And if it's necessary, of course it will
18 get done, but I need you to think about that as well.

19 MR. SAMUELS: Your Honor, I believe that
20 the way this should probably be done is Intel should do
21 the redactions carefully and faithfully to what Your
22 Honor has ordered and they should take whatever check
23 steps they need to take to insure that, and should there
24 be an issue later, Your Honor will have the originals and

1 can make any calls. But I, you know, I am willing to
2 trust that Intel will do as Your Honor has ordered and
3 leave it at that unless they would prefer to have the
4 comfort and safety, if you will, of having your office
5 check their work.

6 MR. LEVY: Your Honor, we will take on
7 that responsibility. We are as anxious as anybody to get
8 all of this out of the way and get onto the substance of
9 this lawsuit and we appreciate the fact that O'Melveny is
10 going to accept this from us and we will do it.

11 SPECIAL MASTER POPPITI: Thank you.
12 Then I think, then, that's very helpful for purposes of
13 coming to grips with that process.

14 Okay, then, what I will do is I am
15 looking forward, then, to a meet and confer quite simply
16 focused on the issues of how the documents will be
17 copied, and please get back to me as soon as you can,
18 mindful of the fact that I may be receiving some more
19 things tomorrow if that is in the offing.

20 The thing that I want to do is I just
21 want to correct my earlier recitation on this record, the
22 rule that I was referring to, I think I said 26(c), it's
23 actually 26(b)(2)(C), 26(b)(2)(C). So, Renee, if you
24 would do me the courtesy of wherever I reference 26(b),

1 to substitute the cite that I just referenced, I
2 appreciate that.

3 MR. SAMUELS: Your Honor, just one more
4 housekeeping item, if I may.

5 SPECIAL MASTER POPPITI: Please.

6 MR. SAMUELS: Your Honor, we sent a
7 letter to Your Honor, I believe February 13th,
8 questioning whether we had received the representations
9 from Intel that were due in connection with the
10 submission in camera of the materials, the Weil, Gotshall
11 materials, and we haven't heard anything further either
12 from Intel or Your Honor, and wonder if that -- if those
13 representations are going to be forthcoming.

14 SPECIAL MASTER POPPITI: Well, in fact,
15 we did receive them but we were waiting for the response
16 time treating it as any other communication with me
17 looking for some action response, if you will.

18 MR. SAMUELS: Very good, Your Honor.

19 MR. LEVY: Your Honor --

20 SPECIAL MASTER POPPITI: It was also
21 important to consider waiting until tomorrow to see what
22 was going to happen.

23 MR. LEVY: What we are going to do, Your
24 Honor, is we will supply you, and we are anticipating

1 getting it out the door here tonight so that you will get
2 delivered the additional materials tomorrow -- and maybe
3 not, in any event, from the looks of people in here --
4 but, Your Honor, when it gets out the door, there will be
5 a letter forthcoming that will contain the representation
6 that would be appropriate under the circumstances.

7 SPECIAL MASTER POPPITI: Perfect. I
8 would have expected that and I am sorry that I didn't
9 pick up the ball and answer that question when the letter
10 came in. Okay. Is there anything else, then, please?

11 MR. LEVY: No. We appreciate the time,
12 Your Honor. Thank you very much.

13 MR. SAMUELS: Thank you, Your Honor.

14 SPECIAL MASTER POPPITI: By now.

15 (The teleconference was concluded at
16 4:40 p.m.)

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C E R T I F I C A T E

STATE OF DELAWARE:
:
NEW CASTLE COUNTY:

I, Renee A. Meyers, a Registered Professional Reporter, within and for the County and State aforesaid, do hereby certify that the foregoing teleconference was taken before me, pursuant to notice, at the time and place indicated; that the teleconference was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the foregoing teleconference is a true record; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.

WITNESS my hand this 27th day of February A.D. 2007.

Renee A. Meyers

RENEE A. MEYERS
REGISTERED PROFESSIONAL REPORTER
CERTIFICATION NO. 106-RPR
(Expires January 31, 2011)

