

December 15, 2008

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**VIA CM/ECF &  
E-MAIL**

The Honorable Joseph J. Farnan, Jr.  
United States District Court  
for the District of Delaware  
844 King Street  
Wilmington, DE 19801

**Re: *In re Intel Corporation Microprocessor Antitrust Litigation*  
*Nos. C.A. 05-441-JJF, C.A. 05-485-JJF & MDL 05-1717-JJF***

Dear Judge Farnan:

I am writing on behalf of Advanced Micro Devices, Inc. ("AMD"), and at the request of counsel for Class Plaintiffs, in connection with Special Master Poppiti's December 9, 2008 Report and Recommendation Regarding Duration of Depositions of Current and Former Employees of Nonparty Dell Inc. (attached hereto as Exhibit A). On December 12, 2008, the Dell Witnesses filed objections to the Report and Recommendation (D.I. 1223 in C.A. No. 05-485, D.I. 1100 in C.A. No. 05-441, and D.I. 1362 in MDL No. 05-1717). Virtually all of the points raised by the Dell Witnesses in their objections were addressed in the letter briefs, exhibits and oral arguments before Special Master Poppiti. Accordingly, to expedite resolution of this matter, AMD and Class Plaintiffs do not intend to reply substantively to the Dell Witnesses' objections other than to stand on their original filings before Special Master Poppiti (attached hereto as Exhibits B, C, D and E) along with the transcript of the hearing conducted by Special Master Poppiti on this matter (attached hereto as Exhibit F), and to state that AMD and Class Plaintiffs agree with Special Master Poppiti's analysis and conclusions.

The one point not raised by Dell during the proceedings before Special Master Poppiti is Dell's objection to the part of the Report and Recommendation that states: "The depositions shall be conducted in accordance with the practices and procedures established by the orders of this Court issued in connection with this MDL proceeding, and specifically Case Management Order No. 6." That provision is unassailable. All District Court judges have the authority and discretion to issue orders establishing the manner in which depositions will be conducted. *See, e.g.*, Fed. R. Civ. P. 30(d)(1) ("Unless otherwise stipulated or ordered by the court, a deposition is limited to 1 day of 7 hours. The court must allow additional time consistent with Rule 26(b)(2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination."); Fed. R. Civ. P. 16(c)(2)(F), (L) and (P) (permitting District Court judges to issue orders "controlling . . . discovery," "adopting special

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procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems,” or “facilitating in other ways the just, speedy, and inexpensive disposition of the action”); Fed. R. Civ. P. 16(b)(3)(B)(ii) and (vi) (permitting District Court judges to issue scheduling orders that “modify the extent of discovery” or “include other appropriate matters”). Although this authority and discretion applies to all District Court judges, it is critically important when the District Court judge is presiding over MDL proceedings. “The objective of transfer is to eliminate duplication in discovery, avoid conflicting rulings and schedules, reduce litigation costs, and save the time and effort of the parties, the attorneys, the witnesses, and the courts.” Manual for Complex Litigation (Fourth) § 20.131, at 220 (2004). All relevant case management orders in this case have been served on counsel for the Dell Witnesses, and their depositions should be governed by the same set of rules as every other deposition in this multidistrict litigation. *See, e.g., In re Auto. Refinishing Paint Antitrust Litig.*, 229 F.R.D. 482, 486 (E.D. Pa. 2005) (“[The purposes of 28 U.S.C. § 1407(b)] would be undermined if we were required to apply the precedents of each court issuing a discovery subpoena, rather than relying on the law of the transferee forum.”).

AMD and Class Plaintiffs respectfully request that after duly considering the Report and Recommendation, Dell’s objections thereto and Exhibits B - F, Your Honor enter an Order, in the form attached hereto as Exhibit G, adopting Special Master Poppiti’s Report and Recommendation.

I am available at the Court’s convenience should Your Honor have any questions.

Respectfully,

/s/ Adam Balick

Adam Balick

Enclosure

cc: Clerk of the Court  
Richard L. Horwitz, Esq.  
James L. Holzman, Esq.  
Thomas R. Jackson, Esq.  
Michael D. Mann, Esq.  
Lauren E. Maguire, Esq.  
The Honorable Vincent J. Poppiti