

**Issued by the  
UNITED STATES DISTRICT COURT**

IN RE INTEL CORPORATION Northern District of California  
MICROPROCESSOR ANTITRUST LITIGATION

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

**SUBPOENA IN A CIVIL CASE**

INTEL CORPORATION

Case Number:<sup>1</sup> MDL No. 05-1717-JJF;  
Consol. C.A. No. 05-485-JJF

TO: Fujitsu, Ltd. c/o Fujitsu Computer Systems  
1250 Arques Avenue, MS 122  
Sunnyvale, CA 94085

United States District Court  
District of Delaware

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case. **Please see attached Exhibit A -- Description of Deposition Matters**

PLACE OF DEPOSITION <b>O'Melveny &amp; Myers LLP</b> <b>2765 Sand Hill Road, Menlo Park, CA 94025-7019</b>	DATE AND TIME <b>4/9/2009 9:00 a.m.</b>
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YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME
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YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rule of Civil Procedure 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) <i>Laina M. Herbert</i> <b>Attorney for Class Plaintiffs</b>	DATE <b>2/9/2009</b>
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ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER <b>Laina M. Herbert, Prickett, Jones &amp; Elliott, P.A. (DE Bar #4717)</b> <b>1310 King Street, P.O. Box 1328, Wilmington, DE 19899-1328 (302) 888-6500</b>
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(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

**PROOF OF SERVICE**

DATE

PLACE

**SERVED**

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

**(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA.**

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(d) DUTIES IN RESPONDING TO A SUBPOENA.**

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) CONTEMPT.**

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

## **EXHIBIT A**

### **DESCRIPTION OF MATTERS ON WHICH EXAMINATION IS REQUESTED**

#### **I.**

##### **MEANS OF RECORDING**

1. The deposition will be recorded by stenographic and sound-and-visual (videographic) means, will be taken before a Notary Public or other officer authorized to administer oaths, and will continue from day to day until completed, weekends and public holidays excepted.

#### **II.**

##### **DEFINITIONS**

1. "Fujitsu" shall mean and refer to Fujitsu, Ltd., including its past and present officers, directors, agents, attorneys, employees, consultants, or other persons acting on its behalf, as well as any other subsidiary or affiliate of Fujitsu, Ltd. designing, producing, or selling computer products incorporating x86 microprocessors.

2. "Intel" shall mean and refer collectively to defendants Intel Corporation and Intel Kabushiki Kaisha, including their respective past and present officers, directors, agents, attorneys, employees, consultants, or other persons acting on their behalf.

3. "AMD" shall mean and refer collectively to plaintiffs Advanced Micro Devices, Inc. and AMD International Sales & Service, Ltd., including their respective past and present officers, directors, agents, attorneys, employees, consultants, or other persons acting on their behalf.

4. "Microprocessor" shall mean and refer to central processing units ("CPUs") using an x86 instruction set, including, but not limited to, Sempron, Athlon, Turion, Opteron, Celeron, Pentium, and Xeon.

### III.

#### SUBJECT MATTER

1. Any agreement between Fujitsu and Intel to jointly develop or market server products incorporating x86 microprocessors, including, but not limited to, the agreement reached in January 2003 between Intel and Fujitsu to jointly develop servers using Intel's microprocessors that will support both Microsoft and Linux operating systems.

2. Any decision by Fujitsu to discontinue the use of AMD x86 microprocessors in any computer product or series, including, but not limited to, Fujitsu's decision to discontinue the use of AMD x86 microprocessors in its corporate desktop line in 2002, and Fujitsu's decision to discontinue the use of AMD x86 microprocessors in Fujitsu BIBLO series notebooks in 2003.

3. Any decision by Fujitsu to delay the development, production, or release of any computer product or series incorporating AMD x86 microprocessors, including Intel's involvement, if any, in such decisions and including, but not limited to, any plans to develop and launch an FMV LifeBook MG Series notebook featuring AMD x86 microprocessors in 2002 and any plans to develop and launch an Opteron-based workstation product in 2006.

4. Any marketing promotions, advertisements, or campaigns by Fujitsu involving computer products incorporating AMD x86 microprocessors, and any efforts by Intel to control, direct, or restrict such marketing. Such subject shall include, but not be limited to, a) Fujitsu's decision to promote the clock speed of AMD x86 microprocessors in 2002; b) Fujitsu's promotional efforts for its LifeBook S2000 series products featuring AMD x86 microprocessors in 2003; c) Fujitsu's promotional efforts for its "C series" small and medium business product incorporating an AMD x86 microprocessor in 2004; and d) Fujitsu's promotional efforts for any computer products featuring AMD's Athlon 64 x86 microprocessor in 2003 and 2004.

5. The exclusion of AMD x86 microprocessors from notebooks and other computer products targeting the commercial segment, including, but not limited to, the decision not to launch a LifeBook MG Series notebook containing an AMD x86 microprocessor in the commercial segment in 2003.

6. Any payments, rebates, or other incentives offered to Fujitsu by Intel conditioned on exclusivity, market share targets, or the discontinuation of computer products featuring AMD x86 microprocessors, including, but not limited to, any incentives provided to Fujitsu by Intel in 2003 related to the exclusive use of Intel x86 microprocessors in Fujitsu's A4 and B5 notebook lines.

7. Any involvement or interference by AMD or Intel in the launch by Fujitsu of new computer products incorporating x86 microprocessors from January 1, 2000 to the present, including, but not limited to, Intel's involvement with Fujitsu's launch of a LifeBook S2000 series notebook incorporating a low power AMD Athlon x86 microprocessor in 2003.

8. The role of Fujitsu in Intel's Centrino launch day activities in New York in March 2003, including any communication, written or verbal, between Fujitsu and Intel regarding those launch activities.

9. The purchase or acquisition of x86 microprocessors by Fujitsu for the period from January 1, 2000 to the present, including the existence and structure of any rebates, price adjustments, meet-competition payments/allowances, marketing payments/allowances, joint sales and marketing programs, credits, and other incentives or disincentives, monetary or otherwise, provided to Fujitsu by Intel or AMD in connection with the purchase and acquisition of x86 microprocessors.

10. Fujitsu's roadmap for computer products incorporating x86 microprocessors, including but not limited to notebooks, desktops, tablet PCs, servers, blade servers, and workstations, for the period from January 1, 2000 to the present.

11. Current or former officers, directors, agents, managers or employees of Fujitsu or its affiliates who would also possess relevant knowledge about any of the preceding subjects.