

Rule 30(b)(6) and Document Requests (“Motion to Compel”) (Docket No. 1554) related to Intel’s evidence preservation and completeness of document production. A copy of AMD’s Notice of Taking Deposition of Intel Corporation And Intel Kabusidki Kaisha Concerning Evidence Preservation And Completeness of Document Production, and Request For Production of Documents is attached hereto as Exhibit A;

WHEREAS, Intel opposes the Motion on the grounds that [D.I. 1605] (i) the discovery is time-barred pursuant to the June 20, 2007 Stipulation and Order Bifurcating Discovery into Intel’s Preservation Issues (“Bifurcation Order”) [D.I. 396]; (ii) the discovery sought is duplicative of prior discovery which AMD has or has had ample opportunity to obtain; and (iii) the Motion to Compel is not ripe for consideration;

WHEREAS, the Special Master held a telephonic hearing in this matter on July 20, 2009 (the “hearing”) during which the Special Master made certain conclusions;

WHEREAS, for the sake of convenience and clarity any conclusions reached by the Special Master both during and subsequent to the hearing will herein read “concludes”;

WHEREAS, the Special Master consulted with Eric Friedberg and his colleagues at Stroz Friedberg LLC who also participated in the hearing;

WHEREAS, the Special Master noted that the Bifurcation Order permitted discovery to be conducted by AMD concerning Intel’s remediation plan itself and which could also include “inquiring into the nature and extent of Intel’s loss of data, and the potential consequences of those losses with respect to Intel’s ability to remediate the same, to be concluded by August 31, 2007;

WHEREAS, the Special Master also noted the Bifurcation Order also permitted discovery concerning causation/culpability related issues to be conducted expeditiously commencing no later than October 1, 2007 without setting an end date;

WHEREAS, the Special Master concludes that causation/culpability discovery is not time-barred since the Bifurcation Order does not contain an end date and the term “expeditiously” relates to the commencement of discovery;

WHEREAS, Eric Friedberg and his colleagues at Stroz Friedberg LLC advised and the Special Master concludes, that discovery conducted on remediation and causation/culpability, necessarily involved the same opportunity to conduct what would be considered Fed. R. Civ. P. 30(b)(6) discovery consistent with the United States District Court for the District of Delaware Default Standards for Discovery of Electronic Documents (“E-Discovery”);

WHEREAS, the Special Master concludes that an exhaustive examination of all prior deposition transcripts and document production with an eye toward determining whether AMD had a complete and fullsome opportunity to ask questions now covered by the deposition topics at issue would neither be plausible or practical and burdensome;

WHEREAS, at the same time the Special Master further concludes that some opportunity to conduct Fed. R. Civ. P. 30(b)(6) discovery on some of the notice topics is appropriate and ripe, although repetitive and duplicative discovery and discovery of matters that are closed pursuant to the Bifurcation Order is not appropriate;

WHEREAS, the Special Master pursuant to the agreement of the parties, concludes that Topics 7 and 9 are appropriate and the 30(b)(6) depositions on these two topics will be conducted in seven (7) hours;

WHEREAS, the Special Master concludes that Topics 5, 6, and 8 have been addressed in prior deposition notices and no additional deposition time should be permitted;

WHEREAS, the Special Master concludes that Topics 1 and 2 have not been covered by prior deposition notices;

WHEREAS, the Special Master concludes that Topics 4 and 10 address topics for which new information has been discovered. Topic 4 relates to information newly disclosed by Intel regarding problems it had with extracting data from the EMC Archive and Topic 10 relates to information newly supplied by Intel through its revised custodian interview summaries.

WHEREAS, with respect to AMD's Request for Production the Special Master is mindful of Intel's assertion that if it possessed the documents it would have produced them pursuant to prior requests;

WHEREAS, the Special Master concludes that if Intel has produced responsive documents, a certification of that production is appropriate;

WHEREAS, the Special Master concludes that if Intel cannot certify that all responsive documents have been produced, Intel should provide responses to the requests for production;

NOW, THEREFORE, AND FOR REASONS ALSO STATED ON THE RECORD IT IS HEREBY ORDERED, AS FOLLOWS:

1. AMD's request for Fed. R. Civ. P. 30(b)(6) depositions is HEREBY GRANTED as set forth below and DENIED in all other respects:

a. Topics No. 1 and 2 - 1 hour;

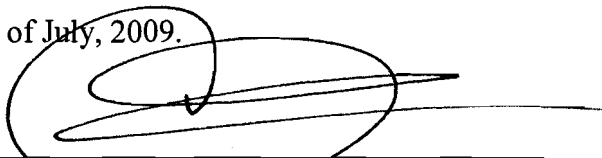
- b. Topics 3 – 2 hours;
- c. Topic 4 – 1 hour;
- d. Topics 7 and 9 – 7 hours;
- e. Topic 10 – 2 hours.

2. Within seven (7) days of the date of this Order, Intel shall either (i) certify that it has produced all of the documents responsive to AMD's Request for Production or (ii) produce the responsive documents on a date to be mutually agreed upon by the parties. The parties shall advise the Special Master of the agreed upon date not later than August 7, 2009.

4. Not later than close of business on August 7, 2009, the parties shall recommend to the Special Master an end date for causation / culpability discovery.

THE SPECIAL MASTER'S OPINION AND ORDER WILL BECOME A FINAL ORDER OF THE COURT UNLESS OBJECTION IS TAKEN IN ACCORDANCE WITH THE ANTICIPATED ORDER OF THE COURT WHICH SHORTENS THE TIME WITHIN WHICH AN APPLICATION MAY BE FILED PURSUANT TO FED. R. CIV. P. 53(f)(2).

SO ORDERED, this 31st day of July, 2009.



Vincent J. Poppiti (DSBA No. 100614)
Special Master