



WHEREAS, the matter is presently before the Special Master on defendants Intel Corporation and Intel Kabushiki Kaisha's ("Intel") Motion to Compel Plaintiffs, Advanced Micro Devices, Inc. and AMD International Sales & Service, Ltd. ("AMD") to comply with Intel's notice of deposition pursuant to Fed. R. Civ. P. 30(b)(6) (the "Notice of Deposition") ("Motion to Compel") (D.I. 1396);

WHEREAS, the Special Master conducted a teleconference on the Motion on July 29, 2009, during which the Special Master inquired as to the existence of any joint prosecution agreement. AMD responded that it has entered into a joint prosecution agreement with the Class Plaintiffs in this litigation ("Joint Prosecution Agreement"). Thereafter, Intel requested that the Special Master require that AMD produce the Joint Prosecution Agreement for *in camera* review in order to permit the Special Master to determine if it contains any term or provision that would permit AMD to exert influence over the formal position taken by the Class;

WHEREAS, on August 18, 2009 the Special Master entered an Order (D.I. 1683) ("Order") granting in part and denying in part the Motion To Compel as it relates to Topics 1 through 20 and Topics 22 and 23;

WHEREAS, with regard to Topic 21,<sup>1</sup> the Order required AMD to submit a copy of the Joint Prosecution Agreement to the Special Master for *in camera* review;

WHEREAS, on September 9, 2009 AMD submitted a copy of the Joint Prosecution Agreement to the Special Master for *in camera* review;

WHEREAS, the Special Master conducted an *in camera* review of the Joint Prosecution Agreement;

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<sup>1</sup> Topic 21 of the Deposition Notice states: "[W]hether AMD has entered into a joint prosecution agreement with either of Plaintiff Classes and, if so, when it did so and on what terms. See Deposition Notice at ¶ 21 (D.I. 1755).

WHEREAS, the Special Master concludes that terms of the Joint Prosecution Agreement do not give AMD any opportunity to influence, direct or complement in any way whatsoever the litigation strategy or decisions advanced on behalf of the Class Plaintiffs;

WHEREAS, Special Master therefore further concludes that deposition Topic 21 is impermissible in the context of a Fed. R. Civ. P. 30(b)(6) deposition because it seeks information which is privileged and protected from discovery. *See In re Teleglobe Communications Corp.*, 493 F.3d 345, 364 (3d Cir. 2007);

NOW THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. Intel's Motion To Compel AMD's Rule 30(b)(6) witness to respond to Topic 21 is DENIED.

THE SPECIAL MASTER'S 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 18th day of September, 2009.



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