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September 18, 2009

VIA ELECTRONIC MAIL AND HAND DELIVERY

The Honorable Vincent J. Poppiti
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REDACTED
PUBLIC VERSION

**Re: Advanced Micro Devices, Inc., et al. v. Intel Corporation, et al.
C.A. No. 05-441-JJF; In re Intel Corporation, C.A. No. 05-MD-1717-
JJF; Phil Paul v. Intel; C.A. No. 05-485 JJF (DM 40)**

Dear Judge Poppitti:

Advanced Micro Devices, Inc. and AMD International Sales & Services, Ltd. ("AMD") oppose Intel's motion to (1) either (a) compel production of discoverable materials related to Dr. Daryl Ostrander's expert report or (b) require written confirmation from AMD that it has produced all such material, and (2) require AMD to provide certain other information, on the ground that the motion is moot. At the time Intel filed its motion, it knew that AMD had already responded in part to its inquiries, and was working diligently to complete the process. (See Exhibit 1, e-mail dated September 9, 2009 from Shaun Simmons to Michael M. Lee.) By early this week AMD had provided Intel with all of the required documents, answered Intel's questions, and provided the written confirmation Intel sought:

We can now confirm, as you requested, that we have produced all data and documents considered by Dr. Ostrander in forming the opinions set forth in his report discoverable under the May 10, 2007 Amended Stipulation and Protective Order Re Expert Discovery (The "Amended Stipulation").

(Exhibit 2 at 1, September 15, 2009 letter from Shaun Simmons to Michael Lee.) Accordingly, the Court should deny Intel's motion.

As explained in its September 15 letter to Intel, AMD learned when responding to Intel's inquiries that certain exhibits attached to Dr. Ostrander's report contained data based on a preliminary version of a spreadsheet that calculated AMD's actual sales of microprocessors. AMD produced both the preliminary and final versions of the spreadsheet, as well as the original and final versions of intermediate spreadsheets based respectively on the preliminary and final

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versions of the actual sales calculations, and revised versions of Dr. Ostrander's exhibits reflecting the final sales numbers. (See Exhibit 2 at 1-2.)

Similarly, certain exhibits to Dr. Ostrander's report contained information based on a summary of historical capital expenditures provided by GlobalFoundries. In responding to Intel's inquiries, AMD learned [REDACTED]
[REDACTED] AMD also voluntarily provided background information on how the data in the summary was obtained, as Intel had requested. (See Exhibit 2 at 2-3.)

As we have previously advised Intel, and as we reiterated to its lead counsel today, the corrected versions of documents AMD provided are entirely confined to the Ostrander backup materials, they are *de minimus*, and they are entirely immaterial to Dr. Ostrander's analysis.

"Not a single line of Dr. Ostrander's expert report has changed. His conclusions remain his conclusions, and the basis for them remains entirely the same. Nor are the opinions of any other expert affected." (See Exhibit 3 at 1, September 18, 2009 letter from Charles P. Diamond to Robert E. Cooper.)

Finally, Intel's motion repeatedly asks the Court to compel AMD to identify more specifically a document referenced in Dr. Ostrander's report as the [REDACTED]
[REDACTED] and erroneously claims that AMD has refused to respond to Intel's questions about this document. In fact, AMD did so three days *before* Intel filed its motion, explaining that the reference should have been to the [REDACTED]
[REDACTED] and that the document had been included in Dr. Ostrander's original disclosures as AMD-F118-00000247. (Exhibit 4, September 6, 2009 e-mail from Shaun Simmons to Steven E. Sletten.)

Unfortunately, even though AMD has provided it with everything it sought, Intel has declined to withdraw its motion, stating that it has not yet completed its review of the material produced. (Exhibit 5, September 18, 2009 email from Michael Lee to Shaun Simmons.) Nor would Intel agree to continue the hearing date while it finishes its review. (*Id.*)

AMD has complied fully with its obligations under the Amended Stipulation and has confirmed in writing that it has done so. The Court therefore should deny Intel's motion as moot.

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Respectfully,

/s/ Frederick L. Cottrell, III

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cc: Clerk of the Court (via electronic filing)
Richard L. Horwitz, Esquire (via electronic filing)
James L. Holzman, Esquire (via electronic filing)