

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ADVANCED MICRO DEVICES, INC., a
Delaware corporation, and AMD
INTERNATIONAL SALES & SERVICES,
LTD., a Delaware corporation,

Plaintiffs,

v.

INTEL CORPORATION, a Delaware
corporation, and INTEL KABUSHIKI KAISHA,
a Japanese corporation,

Defendants.

C.A. No. 05-441-JJF

IN RE
INTEL CORPORATION
MICROPROCESSOR ANTITRUST
LITIGATION

MDL No. 05-1717-JJF

PHIL PAUL, on behalf of himself
And all others similarly situated,

Plaintiffs

v.

INTEL CORPORATION,

Defendants.

C.A. No. 05-485-JJF

CONSOLIDATED ACTION

**PUBLIC VERSION -
REDACTED**

**DECLARATION OF BRIAN C. ROCCA IN SUPPORT OF
INTEL'S MOTION FOR AN ORDER IMPOSING SANCTIONS
AGAINST AMD AND COMPELLING REMEDIATION**

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Dated: October 14, 2009

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Attorneys for Defendants
Intel Corporation and
Intel Kabushiki Kaisha

I, Brian C. Rocca, declare as follows:

1. I am an attorney at Bingham McCutchen LLP, counsel of record for Intel Corporation and Intel Kabushiki Kaisha ("Intel") in this matter. I am licensed to practice law in the State of California and am admitted *pro hac vice* in this matter. I have personal knowledge of the matters stated in this declaration and, if called as a witness, could and would testify competently to them.

2. On or about September 2, 2009, I participated in a meet and confer with AMD's counsel regarding, among other topics, Intel's letter to AMD dated August 28, 2009. During that meet and confer, AMD's counsel advised Intel that AMD would not produce any additional documents related to the 20 subject custodians referenced in the letter. At that time, AMD also indicated that the restored data for these 20 custodians no longer existed in an "active" data format.

3. Attached as Exhibit 1 is a true and correct copy of an August 23, 2007 letter from Charles Diamond to Robert Cooper.

4. Attached as Exhibit 2 is a true and correct copy of AMD's June 11, 2008 letter to Special Master Vincent Poppiti.

5. Attached as Exhibit 3 is a true and correct copy of a document bearing bates numbers AMD-F065-00018384 through AMD-F065-00018421, marked Exhibit 5558 at the deposition of [REDACTED] taken on October 30, 2008.

6. Attached as Exhibit 4 is a true and correct copy of relevant portions of the deposition transcript of [REDACTED] taken on March 30, 2009 and August 14, 2009.

7. Attached as Exhibit 5 is a true and correct copy of relevant portions of the deposition transcript of [REDACTED] taken on March 6, 2009.

8. Attached as Exhibit 6 is a true and correct copy of a document bearing bates numbers MCK-003523 through MCK-003582, marked Exhibit 6753 at the deposition of [REDACTED] taken on March 30, 2009.

9. Attached as Exhibit 7 is a true and correct copy of a document bearing bates numbers AMD-F065-5122911 through AMD-F065-5122917, marked Exhibit 8718A at the deposition of [REDACTED] taken on May 15, 2009.

10. Attached as Exhibit 8 is a true and correct copy of a document bearing bates numbers AMD-F008-00009689 through AMD-F008-00009733, marked Exhibit 227 at the deposition of [REDACTED] taken on March 6, 2009.

11. Attached as Exhibit 9 is a true and correct copy of a document bearing bates numbers AMD-F065-5101251 through AMD-F065-5101290, marked Exhibit 222 at the deposition of [REDACTED] taken on March 6, 2009.

12. Attached as Exhibit 10 is a true and correct copy of relevant portions of the deposition transcript of [REDACTED] taken on May 29, 2009.

13. Attached as Exhibit 11 is a true and correct copy of the Declaration of [REDACTED] in Support of AMD's Opposition to Intel's Motion to Compel Discovery from Third-Party Glover Park, dated June 26, 2009 (D.I. 1950).

14. Attached as Exhibit 12 is a true and correct copy of a document bearing bates numbers AMD-F108-5101304 through AMD-F108-5101313, marked Exhibit 6123 at the deposition of [REDACTED] taken on January 30, 2009.

15. Attached as Exhibit 13 is a true and correct copy of a document bearing bates numbers AMD-F108-5111259 through AMD-F108-5111412, marked Exhibit 9671 at the deposition of [REDACTED] taken on June 3, 2009.

16. Attached as Exhibit 14 is a true and correct copy of a document bearing bates number AMD-F067-00025868.

17. Attached as Exhibit 15 is a true and correct copy of relevant portions of the transcript from the July 20, 2009 discovery hearing.

18. Attached as Exhibit 16 is a true and correct copy of an August 21, 2006 article posted on the CNNMoney.com website, marked Exhibit 6752 at the deposition of [REDACTED] taken on March 30, 2009.

19. Attached as Exhibit 17 is a true and correct copy of an August 2, 2007 press release posted on the AMD website.

20. Attached as Exhibit 18 is a true and correct copy of the Declaration of Charles Diamond in Support of Opposition by ERS Group and AMD to Intel's Motion to Compel Production, dated November 9, 2007 (D.I. 648).

21. Attached as Exhibit 19 is a true and correct copy of a document bearing bates number AMD-F065-5119870, marked Exhibit 224 at the deposition of [REDACTED] taken on March 6, 2009.

22. Attached as Exhibit 20 is a true and correct copy of a September 27, 2007 letter from Linda Smith to Dan Floyd.

23. Attached as Exhibit 21 is a true and correct copy of relevant portions of the deposition transcript of [REDACTED] taken on January 28 and 30, 2009.

24. Attached as Exhibit 22 is a true and correct copy of a document bearing bates number AMD-412-00000025.

25. Attached as Exhibit 23 is a true and correct copy of a document titled "Privilege Log - [REDACTED]", marked Exhibit 223 at the deposition of [REDACTED] taken on March 6, 2009.

26. Attached as Exhibit 24 is a true and correct copy of a March 8, 2005 press release posted on the AMD website, marked Exhibit 228 at the deposition of [REDACTED] taken on March 6, 2009.

27. Attached as Exhibit 25 is a true and correct copy of relevant portions of the deposition transcript of [REDACTED] taken on May 15, 2009.

28. Attached as Exhibit 26 is a true and correct copy of a document bearing bates numbers AMD-500-00000092 through AMD-500-00000093.

29. Attached as Exhibit 27 is a true and correct copy of an October 24, 2005 letter from David Herron to John Rosenthal.

30. Attached as Exhibit 28 is a true and correct copy of relevant portions of the deposition transcript of [REDACTED] taken on March 5, 2009; March 19, 2009; and August 13, 2009.

31. Attached as Exhibit 29 is a true and correct copy of the Declaration of Jeffrey J. Fowler, dated July 24, 2008.

32. Attached as Exhibit 30 is a true and correct copy of relevant portions of the deposition transcript of [REDACTED], taken on March 5, 2009 and August 13, 2009.

33. Attached as Exhibit 31 is a true and correct copy of relevant portions of the transcript from the January 9, 2009 discovery hearing.

34. Attached as Exhibit 32 is a true and correct copy of relevant portions of the deposition transcript of [REDACTED] taken on February 5, 2008.

35. Attached as Exhibit 33 is a true and correct copy of a document produced by Intel in this matter titled "Hold Notice Dates for 1025 Custodians".

36. Attached as Exhibit 34 is a true and correct copy of a document bearing bates numbers AMD-500-00000094 through AMD-500-00000097.

37. Attached as Exhibit 35 is a true and correct copy of AMD's harvest lists, which were produced in this matter and attached to the July 24, 2008 Declaration of Jeffrey Fowler (D.I. 1087).

38. Attached as Exhibit 36 are true and correct copies of the harvest date lists produced by Intel in this matter.

39. Attached as Exhibit 37 is a true and correct copy of relevant portions of the deposition transcript of ██████████ taken on March 19, 2009.

40. Attached as Exhibit 38 is a true and correct copy of a document bearing bates number AMD-F109-5100917, marked Exhibit 208 at the deposition of ██████████ taken on March 5, 2009.

41. Attached as Exhibit 39 is a true and correct copy of a document bearing bates numbers AMD-F157-5100500 through AMD-F157-5100502.

42. Attached as Exhibit 40 is a true and correct copy of a document bearing bates number AMD-F059-5100394.

43. Attached as Exhibit 41 is a true and correct copy of a document bearing bates number AMD-F063-5106761.

44. Attached as Exhibit 42 is a true and correct copy of a document bearing bates number AMD-F157-5100503, marked Exhibit 207 at the deposition of ██████████ taken on March 5, 2009.

45. Attached as Exhibit 43 are true and correct copies of documents bearing bates numbers AMD-F001-5100445 through AMD-F001-5100448; AMD-F019-5100005 through AMD-F019-5100008; AMD-F043-5100016 through AMD-F043-5100019; and AMD-F149-5100382 through AMD-F149-5100385.

46. Attached as Exhibit 44 is a true and correct copy of an April 23, 2007 letter from David Herron to Robert Cooper.

47. Attached as Exhibit 45 is a true and correct copy of a November 27, 2007 letter from David Herron to Richard Levy.

48. Attached as Exhibit 46 is a true and correct copy of an August 10, 2007 letter from Mark Samuels to Robert Cooper.

49. Attached as Exhibit 47 is a true and correct copy of relevant portions of the transcript from the May 24, 2007 discovery hearing.

50. Attached as Exhibit 48 is a true and correct copy of relevant portions of the transcript from the September 11, 2008 discovery hearing.

51. Attached as Exhibit 49 is a true and correct copy of the Declaration of John Ashley, dated July 2, 2008.

52. Attached as Exhibit 50 is a true and correct copy of AMD's January 5, 2009 letter to Special Master Vincent Poppiti.

53. Attached as Exhibit 51 is a true and correct copy of AMD's December 9, 2008 letter to Special Master Vincent Poppiti.

54. Attached as Exhibit 52 is a true and correct copy of an October 9, 2008 letter from Donn Pickett to David Herron.

55. Attached as Exhibit 53 is a true and correct copy of an April 29, 2009 letter from Donn Pickett to Mark Samuels.

56. Attached as Exhibit 54 is a true and correct copy of a June 1, 2006 letter from Michael Maddigan to Dan Floyd, attaching a document titled "AMD Party Designated Production Custodian List."

57. Attached as Exhibit 55 is a true and correct copy of a document bearing bates numbers AMD-F051-5103247 through AMD-F051-5103248, marked Exhibit 229 at the deposition of [REDACTED] taken on March 19, 2009.

58. Attached as Exhibit 56 is a true and correct copy of a document bearing bates numbers AMD-500-00000017 through AMD-500-00000019.

59. Attached as Exhibit 57 is a true and correct copy of a document bearing bates numbers AMD-500-00000007A through AMD-500-00000011A.

60. Attached as Exhibit 58 is a true and correct copy of a November 14, 2008 letter from Donn Pickett to David Herron.

61. Attached as Exhibit 59 is a true and correct copy of a November 14, 2008 letter from Dave Henshaw to Edward Oh.

62. Attached as Exhibit 60 is a true and correct copy of a May 9, 2009 letter from David Herron to Donn Pickett.

63. Attached as Exhibit 61 is a true and correct copy of a May 29, 2009 letter from Donn Pickett to David Herron.

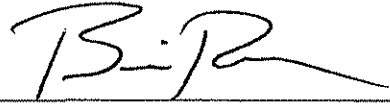
64. Attached as Exhibit 62 is a true and correct copy of Intel's May 26, 2009 letter to Special Master Vincent Poppiti.

65. Attached as Exhibit 63 is a true and correct copy of relevant portions of the transcript from the June 15, 2009 discovery hearing.
66. Attached as Exhibit 64 is a true and correct copy of an August 11, 2009 letter from David Herron to Donn Pickett.
67. Attached as Exhibit 65 is a true and correct copy of a document bearing bates number AMD-412-00000002.
68. Attached as Exhibit 66 is a true and correct copy of a September 12, 2009 letter from Brian McNamara to Edward Oh.
69. Attached as Exhibit 67 is a true and correct copy of a September 17, 2009 letter from Brian McNamara to Edward Oh.
70. Attached as Exhibit 68 is a true and correct copy of an October 1, 2009 letter from Brian McNamara to Edward Oh.
71. Attached as Exhibit 69 is a true and correct copy of a chart identifying the number of unique documents produced to date by AMD for the 37 custodians that are subject to ongoing remediation.
72. Attached as Exhibit 70 is a true and correct copy of an August 28, 2009 letter from Donn Pickett to David Herron.
73. Attached as Exhibit 71 is a true and correct copy of a document titled "AMD's Backup Tape Retention Protocols", marked Exhibit 215 at the deposition of [REDACTED].
74. Attached hereto as Exhibit 72 is a true and correct copy of a chart identifying the distribution of initial litigation hold notices by the parties. The chart is based on litigation hold notice dates exchanged by the parties during this action.

75. Attached hereto as Exhibit 73 is a true and correct copy of a chart identifying the distribution of initial litigation hold notices by the parties. The chart is based on litigation hold notice dates exchanged by the parties during this action.

76. Attached hereto as Exhibit 74 is a true and correct copy of a chart identifying the distribution of initial litigation harvests by the parties. The chart is based on litigation harvest dates exchanged by the parties during this action.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 14th day of October, 2009 at San Francisco, California.



Brian C. Rocca, Esq.
Counsel for Intel