

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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ADVANCED MICRO : CIVIL ACTION  
DEVICES, INC., :  
et al. :

v. :

INTEL CORPORATION, :  
et al. : NO.  
: 1:05-CV-00441-JJF

COPY

JUNE 9, 2006

TELECONFERENCE HEARING was held at the law offices of BLANK ROME LLP, Chase Manhattan Centre, Suite 800, 1201 North Market Street, Wilmington, Delaware beginning at 9:07 a.m., on the above date, before Dottyan Y. Walsh, a Certified Shorthand Reporter and Notary Public in the State of Delaware.

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THE COURT: Let's start with  
plaintiffs.

MR. SHANDLER: Your Honor,  
for the plaintiffs, the AMD  
plaintiffs, Chad Shandler from  
Richards, Layton and Finger. And  
with me is Chuck Diamond from  
O'Melveny and Myers.

MR. DIAMOND: Good morning,  
Your Honor.

THE COURT: Good morning.

MR. HOLZMAN: For the class  
plaintiffs, Your Honor, James  
Holzman with Prickett, Jones and  
Elliott. And also on the phone  
with me is my partner, Clay Athey.  
Also on the phone from Washington  
is Dan Small of the Cohen Milstein  
firm.

THE COURT: Good morning,  
counsel.

MR. Horwitz: Good morning,  
Your Honor, this is Rich Horwitz

1 from Potter Anderson for Intel,  
2 and with me on the line from  
3 Howrey in DC are Peter Moll and  
4 Darren Bernhard.

5 THE COURT: Good morning,  
6 all.

7 MR. HORWITZ: Your Honor,  
8 before we get started, I would  
9 just like to make clear that we  
10 were surprised and frankly  
11 disappointed to get the letter  
12 from Mr. Shandler a little before  
13 11:00 last night that the parties  
14 have tried to work together on  
15 this protective order issue for  
16 months. And I hope that when we  
17 meet on Monday after the  
18 protective order hearing, as part  
19 of our discussion about setting up  
20 ground rules, we will set  
21 something up so that submissions  
22 like this will not come in at  
23 almost 11:00 at night with a 9:00  
24 call scheduled for the next

1 morning.

2 We had an incident a week  
3 ago where letters were sent late,  
4 and the point last week was not  
5 that we did not understand AMD's  
6 position. The point last week was  
7 that agreement was reached that  
8 they would file a letter and we  
9 would respond to it. And that  
10 letter never came in until so  
11 late. That, just like now, it has  
12 really inhibited or prohibited our  
13 chance to respond to the Court.

14 THE COURT: It is more than  
15 inhibitive. I can tell you since  
16 I have been in my office since  
17 8:20 this morning, I have not seen  
18 that letter. So I am inhibited  
19 because I'm not sure what we are  
20 talking about. And if the  
21 information contained in that  
22 letter is important for purposes  
23 of conducting the business I want  
24 to conduct today and that is

1 really to get some view as to how  
2 the hearing should proceed and  
3 what the parameters of it should  
4 be and what the template of it  
5 should look like, then I'm  
6 operating with two hands behind my  
7 back.

8 MR. HORWITZ: Well, Your  
9 Honor, I think that you will hear  
10 from AMD and the class plaintiffs  
11 that is exactly what they sent to  
12 you and to us for the first time  
13 at 10:40 p.m. last night.

14 MR. DIAMOND: Your Honor,  
15 this is Chuck Diamond in Los  
16 Angeles. If I have offended my  
17 friends, Mr. Horwitz or Mr. Moll  
18 or Mr. Bernhard, that certainly  
19 wasn't our intent. What we did  
20 was just simply put together a  
21 list of the issues that are joined  
22 by the various objections and the  
23 responses. It is a list of I  
24 think 36 items that in one way or

1 another need to be disposed, and  
2 we thought it would be useful to  
3 you to have that on one piece of  
4 paper in front of you.

5 THE COURT: Counsel, if --  
6 and I say this respectfully,  
7 anything that is going to be  
8 helpful to point me in the right  
9 direction and ultimately help me  
10 serve up to the court something  
11 that is going to assist the court  
12 in entering an order that is smart  
13 for everyone is certainly what I'm  
14 looking for. But it is quite  
15 frankly not helpful if I don't  
16 know it is coming. And I don't  
17 know to sit down at a desk first  
18 thing in the morning and turn on a  
19 computer and look for it. I along  
20 with I think all of you have  
21 screens with anywhere from 150 to  
22 200 mails on it each day. So we  
23 will have to figure out a much  
24 better way to serve up issues that

1 I'm responsible for dealing with  
2 and to make sure that everyone is  
3 informed before it becomes my  
4 responsibility to make a finding  
5 and recommendation.

6 MR. DIAMOND: I will not  
7 belabor it, I apologize to you and  
8 counsel for Intel getting this out  
9 so late.

10 MR. SHANDLER: I would  
11 second that, it wasn't our  
12 intention to pull a fast one on  
13 anybody. It just got a little  
14 later than we anticipated and we  
15 apologize for that.

16 MR. DIAMOND: The list  
17 simply tracks the 36 items that  
18 are discussed in the response to  
19 the third-party objections. And  
20 it was just as I said before, it  
21 was intended to put in front of  
22 everybody's face in a convenient  
23 form the outstanding issues that  
24 need to be resolved.



1                   THE COURT:    It seems to me  
2                   in order to make my conversation  
3                   with you productive, it is  
4                   important that I have that in  
5                   front of me and it is important  
6                   that I have everyone's view,  
7                   informed view with respect to  
8                   that.    So I reluctantly suggest  
9                   that I think we are going to have  
10                  to reconvene sometime mid  
11                  afternoon today.    But we have -- I  
12                  have some logistic issues,  
13                  logistical issues to deal with  
14                  because I have some things on the  
15                  calendar as well.    I will need to  
16                  put you on hold for approximately  
17                  five minutes so I can figure out  
18                  what we need to do here.

19                  MR. HORWITZ:    Your Honor,  
20                  before going on hold, there are a  
21                  few issues which I think it would  
22                  be helpful to discuss now because  
23                  if we wait until later in the day,  
24                  because of the nature of the

1 issues, I think it may be too  
2 late. And they relate to a  
3 request that came in from one of  
4 the third parties to be able to  
5 participate by telephone I think  
6 was Mr. Kelly who sent in a letter  
7 earlier this week to Your Honor,  
8 and I know that there were some  
9 questions about that courtroom  
10 because you raised that with us  
11 last week. But I think that they  
12 are probably waiting to hear, and  
13 if people have to make travel  
14 arrangements for third parties, I  
15 don't know whether they can make  
16 them. Or at least if there's  
17 going to be a phone option, people  
18 should know today. Wait until the  
19 end of the day, I think that's  
20 going to make things even more  
21 hectic and disruptive on Monday  
22 morning.

23 THE COURT: Mr. Horwitz,  
24 here is what I did with respect to

1           that.    When I got the letter, I  
2           contacted the courthouse and  
3           talked to Judge Farnan's case  
4           manager.   Two things have  
5           occurred.   No. 1, Judge Farnan  
6           given the expectation that there  
7           may be more of you than fewer of  
8           you, has offered the use of his  
9           courtroom.   That is courtroom  
10          4B -- 4B.   Is it 4B?

11                   MR. HORWITZ:   Yes.

12                   THE COURT:   And I would have  
13           been advising you of that either  
14           later in this conversation or  
15           later today once I firmed up  
16           detail.   But in any event, it is  
17           going to be in his courtroom.   I  
18           have been advised that with  
19           respect to even his courtroom,  
20           that it is inadequate to provide  
21           telephone access because the  
22           persons on the other end of the  
23           phone really can't hear what's  
24           going on in the courtroom.   And

1 with that information I thought it  
2 was completely appropriate because  
3 it dealt with an administrative  
4 matter to advise Mr. Kelly by  
5 telephone ex parte that a  
6 telephone conference was --  
7 telephone conferencing was not  
8 going to be available. So he is  
9 aware of that. I am not aware of  
10 any other request to participate  
11 by telephone. If I missed  
12 something, please tell me.

13 MR. HORWITZ: Your Honor,  
14 this is Rich Horwitz. I have not  
15 seen anything else on the record,  
16 although I think that letter even  
17 though I don't have it in front of  
18 me says that there may be  
19 out-of-town counsel and as I read  
20 it, I thought it might have been  
21 plural, but he was speaking for  
22 the group. Now, maybe he has  
23 communicated that to others if  
24 there were others. I don't know.

1 THE COURT: He was, as I  
2 understand it, speaking for the  
3 group, and based on what I  
4 understood to be our conversation  
5 yesterday, he would be informing  
6 them that teleconferencing was not  
7 possible. And it may be something  
8 we may want to figure out for the  
9 future. Expecting we are going to  
10 be doing a little bit of business  
11 in the courthouse, it may be  
12 something I need to talk to Judge  
13 Farnan to see if a line can't be  
14 or equipment can't be installed to  
15 accommodate teleconferencing.

16 MR. HORWITZ: Okay.

17 THE COURT: Mr. Horwitz, any  
18 other matters that we should  
19 address now before putting you on  
20 hold? Any other counsel, please?

21 MR. HORWITZ: I think that  
22 is it for me, Your Honor. This is  
23 Rich Horwitz again.

24 THE COURT: Thank you. Just

1 hold for a moment, please.

2 (Recess at 9:18 a.m.)

3 (Resumed at 9:20 a.m.)

4 THE COURT: Counsel, I'm  
5 back on again. Let's do this,  
6 just for purposes of discussing  
7 the nature of the hearing and  
8 getting your input as to how you  
9 see that that should develop, I'm  
10 not sure I need the correspondence  
11 to do that. If after we have that  
12 conversation, if those of you that  
13 have just received that  
14 correspondence believe it is  
15 important for me to reconvene  
16 sometime during the course of the  
17 afternoon, I can accommodate that  
18 after 3:00. Let's -- with that in  
19 mind, let me just try and see if I  
20 can't get some assist from you in  
21 terms of what the hearing should  
22 look like.

23 And let me start by saying I  
24 think my purpose and Judge

1 Farnan's purpose in wanting me to  
2 conduct a hearing in advance of  
3 ultimately submitting something  
4 that hopefully is developed by  
5 stipulation of everyone involved  
6 is to gain a better understanding  
7 of what the third parties'  
8 concerns are, and what your  
9 positions are with respect to  
10 those. And I know you have done  
11 that, I know you have spent a  
12 significant amount of time in  
13 negotiating what you provided to  
14 the third parties, and I know you  
15 have been drilling down through  
16 their positions. And I have read  
17 all of the dockets, all of the  
18 docket entries that were  
19 identified in Mr. Cottrell's  
20 letter to me dated June 2.

21 It seems to me that the best  
22 way to approach this is perhaps to  
23 take the template that the AMD  
24 response to their objections, to

1 use AMD's response, the format of  
2 it, that is, as the template to  
3 literally march through the entire  
4 proposed protective order. Permit  
5 you as leads to act as leads of  
6 the hearing. Walk through each of  
7 the provisions of the proposed  
8 protective that are at issue if  
9 you will, where there are some  
10 objections, permit those third  
11 parties that are present to add or  
12 provide, shed some light on their  
13 written words, and then permit you  
14 all to respond to those so that we  
15 are literally marching through the  
16 protective order certainly not  
17 word by word although there are  
18 some words that are, quote,  
19 unquote, at issue. But section by  
20 section so that we can move  
21 through it and star each element  
22 where there is no dispute so that  
23 it is expected to become part of  
24 the order as it moves forward to



1 Judge Farnan, listen to the  
2 respective sides and if a judgment  
3 needs to be made on my part or  
4 recommendation, make that  
5 recommendation then and there, so  
6 everyone has an expectation at the  
7 end of the hearing that we have a  
8 stipulation by all concerned or we  
9 have a stipulation in the major  
10 parts and those items that are  
11 disputed, I will serve up a  
12 recommendation from me.

13 MR. MOLL: This is Peter  
14 Moll. We certainly agree with  
15 that approach. We think the  
16 primary purpose here is to let the  
17 third parties have their say and  
18 that was one of the concerns we  
19 had about the letter that we got.  
20 I didn't get until this morning,  
21 that there was an effort to say  
22 maybe all of the third parties  
23 shouldn't be heard from on all of  
24 the things, and we think it is

1           important that they are heard,  
2           make a record if they are coming  
3           all that way. And we think that  
4           the approach Your Honor suggested  
5           is fine and perfectly acceptable  
6           to us.

7                       MR. DIAMOND: I think that  
8           makes a great deal of sense. You  
9           may want to consider doing one  
10          thing sort of preliminarily.

11                      THE COURT: Please.

12                     MR. DIAMOND: When you have  
13          a chance to take a look at just  
14          the list that we put together, you  
15          will see that Mr. Moll and I and  
16          class counsel were able to  
17          negotiate out additional revised  
18          language to accommodate I would  
19          say about two-thirds of the  
20          objections. And I have a feeling  
21          that although the responses and  
22          objections tee up 36 separate  
23          issues, probably two dozen of  
24          those are resolved by the language

1           that we voluntarily agreed to.

2           So you may want to take a  
3           first pass at the issue list. You  
4           may want to consider actually  
5           distributing that to the third  
6           parties and narrowing the field,  
7           because I think what you will find  
8           is that there are really only  
9           disputes over a relatively small  
10          number of provisions now, probably  
11          fewer than 10. But that is just  
12          simply a matter of time  
13          management.

14                 MR. MOLL: This is Peter  
15          Moll. What I would suggest,  
16          Chuck, is simply say to the third  
17          parties as to this particular  
18          provision, whether also  
19          Paragraph 1, whatever it is, we  
20          have made an accomodation and we  
21          hope everybody is satisfied with  
22          it, and make sure that no one has  
23          a problem with the accommodation  
24          we reached, and then hopefully we

1 can move on very quickly.

2 THE COURT: And perhaps that  
3 distribution if I could rely on  
4 your courtesies to get that done,  
5 it may make better sense because  
6 you have been doing this rather  
7 routinely with them, that you do  
8 that. And have copies of -- I  
9 don't know whether the document  
10 I'm going to be seeing has -- I  
11 expect it is going to have all of  
12 the language that you are  
13 proposing and have enough copies  
14 of that language available even at  
15 the hearing for those third  
16 parties that for some reason or  
17 not don't get to view what you  
18 distribute. Does that make sense?

19 MR. DIAMOND: The language  
20 is set forth in the response that  
21 we did. The language was to set  
22 forth each paragraph, the  
23 objection, our response and any  
24 negotiated modification to the

1 language that we proposed. The  
2 third parties already have that,  
3 we served the response on them.  
4 This schedule is just that, it is  
5 just a list of 36 issues and  
6 indicates as to each where we have  
7 proposed additional language, it  
8 doesn't quote it. But I think  
9 what we could do is just circulate  
10 the list and another copy of the  
11 response by e-mail which is the  
12 way we have been communicating  
13 with all of these folks. So long  
14 as I have Peter and Darren sign  
15 off on the schedule that we  
16 prepared. And we can work that  
17 out.

18 THE COURT: Mr. Diamond,  
19 thank you.

20 MR. MOLL: This is Peter  
21 Moll. This is key and it cross  
22 references to plaintiff's filing,  
23 it should also be for everybody's  
24 convenience cross referenced to

1           what we filed and hopefully we can  
2           work that out with Mr. Diamond.  
3           Because we haven't had a chance to  
4           study this list, as I said, Your  
5           Honor, it came in at 11 last  
6           night. I haven't seen it until  
7           this morning. So we will try to  
8           work that out with Mr. Diamond.

9           MR. DIAMOND: That is fine.  
10          We can do that.

11          MR. SMALL: This is Dan  
12          Small for the class plaintiffs. I  
13          wanted Your Honor to know that we  
14          are on board for the approach that  
15          you suggested for the hearing on  
16          Monday.

17          THE COURT: Okay.

18          MR. DIAMOND: This is  
19          Mr. Diamond. The only other  
20          suggestion I made, and if Intel is  
21          uncomfortable with it, then  
22          obviously we will withdraw it.  
23          But I have had the pleasure of  
24          spending the last eight months or

1 so individually negotiating with  
2 all of these parties plus 11  
3 others. And, Judge, you may be in  
4 for a long day on Monday.

5 THE COURT: We anticipated  
6 that that might be the case. And  
7 I would like some sense just so we  
8 know, some sense as to how long  
9 you think that may be.

10 MR. DIAMOND: What we have  
11 attempted in -- to the best of our  
12 ability to short circuit it to  
13 agree as to changes wherever we  
14 thought we could reasonably do  
15 that. But I still think that if  
16 we march through 36 issues, you  
17 will probably find one of the 20  
18 who is prepared to speak to each.  
19 So I assume this is going to be a  
20 day-long affair.

21 But the only other  
22 suggestion you might want to make,  
23 we took a look at these and  
24 thought that they really broke

1           into three categories. There are  
2           a bunch of issues as to what  
3           material ought to be deemed  
4           confidential. There is a bunch of  
5           materials as to how confidential  
6           and non confidential material can  
7           be used.

8           THE COURT: Right.

9           MR. DIAMOND: And there is a  
10          third bucket which concerns  
11          limitations on attorneys and  
12          experts who get access to  
13          confidential information.

14          THE COURT: Yes.

15          MR. DIAMOND: And all 36  
16          fall within one of those  
17          three buckets.

18          We suggested to you and  
19          something you might want to  
20          consider, and that is to have the  
21          third parties appoint a  
22          spokesperson for each issue or  
23          each bucket of issues so that you  
24          don't have to listen to the same



1 arguments 20 times. Most of the  
2 third parties have been  
3 cooperating as a part of one group  
4 or another. There is a  
5 distributors group, there is the  
6 Japanese OEM group, and they have  
7 been talking among themselves. So  
8 it is certainly conceivable that  
9 they could get themselves  
10 organized and streamline this if  
11 you ask them to do that.

12 THE COURT: Let me ask you  
13 this, Mr. Diamond. I think that  
14 is an excellent suggestion and one  
15 that if you have been having --  
16 you have been having routine  
17 contact with them, is it fair to  
18 ask you to help facilitate that,  
19 even in advance of Monday? If  
20 you've got contact with someone  
21 that is the likely lead on any one  
22 of these issues for the respective  
23 third parties, is it fair to ask  
24 you to try to marshal that between

1           now and Monday? Otherwise what we  
2           will be doing is the first thing  
3           to open up the hearing on Monday,  
4           it would be my effort to try and  
5           just drill through and find those  
6           spokespersons for the three  
7           categories that you mention. And  
8           we may be using valuable time that  
9           you may be able to assist in  
10          taking a chunk out of today or  
11          even sometime over the weekend.

12                 MR. MOLL: Your Honor, this  
13                 is Peter Moll for Intel. We have  
14                 also talked with a number of these  
15                 third parties. And some of the  
16                 third parties, particularly some  
17                 of the smaller distributors have  
18                 sort of banded together and have  
19                 hired a single counsel to  
20                 represent them.

21                 THE COURT: Okay.

22                 MR. MOLL: And we anticipate  
23                 that that counsel will be speaking  
24                 on their behalf. But some of the

1           third parties, for example, OEMs,  
2           Bell, Hewlett Packard, IBM,  
3           Lenolo, these are major companies  
4           that are represented by their own  
5           counsel. And are competitors of  
6           one another and have their own  
7           perspective. So those people feel  
8           since they filed papers, I think  
9           they should have the opportunity  
10          to be heard. But I think what  
11          might be productive here is if at  
12          the very beginning of the hearing  
13          or if we could do it beforehand,  
14          we would be happy to work with Mr.  
15          Diamond on this, to get for Your  
16          Honor a list, and maybe we could  
17          start the hearing just trying to  
18          get a list even before Your Honor  
19          begins of who's there and who they  
20          are representing. So that we take  
21          that sort of administrative burden  
22          off Your Honor's shoulder and have  
23          something to present to Your  
24          Honor.

1 THE COURT: That would be a  
2 good idea. Effectively a sign-in  
3 list that may be more  
4 sophisticated than that. So what  
5 I think I'm hearing, if you can't  
6 because you have other important  
7 work to be doing for purposes of  
8 Monday's hearing, if you can't get  
9 the administrative outline in  
10 order between now and Monday, use  
11 the first hour's worth of time to  
12 permit you in the courtroom  
13 outside of my presence to kind of  
14 gather the administrative pieces  
15 together.

16 MR. MOLL: I think that  
17 would be the most effective way of  
18 doing it, Your Honor. I think  
19 that makes a great deal of sense.  
20 And we could show up at 10 and  
21 Your Honor could come at 11.  
22 Probably do it in a half an hour  
23 just so Your Honor isn't sitting  
24 there while this very

1 administrative task is taken care  
2 of.

3 THE COURT: I think that  
4 makes a great deal of sense.  
5 Whether it takes a half hour or an  
6 hour, I plan on being in the  
7 courthouse as early as possible so  
8 I will be available at your call  
9 when you are ready.

10 MR. MOLL: We wanted to get  
11 that list and then when we have it  
12 prepared, we can notify Your Honor  
13 and the hearing can begin.

14 THE COURT: Okay.

15 MR. DIAMOND: I think  
16 Peter's suggestion is a good one.  
17 I think to make this come off with  
18 a measure of organization, it  
19 probably would be useful for us  
20 along with class counsel to  
21 circulate a letter to the third  
22 parties today with the listing  
23 that we described and just a brief  
24 description of the procedures that

1           you contemplate.

2                   THE COURT:    Okay.

3                   MR. DIAMOND:   We are going  
4           to ask each party to sign in and  
5           to identify which of the 36 issues  
6           they still believe there is a need  
7           for them to address.

8                   MR. MOLL:    My thought was  
9           more along the lines of we get the  
10          third parties and we know that so  
11          and so is here from this law firm  
12          and what they want to do is they  
13          want -- they are going to speak on  
14          behalf of the following.  If you  
15          want to try to get a list of what  
16          paragraph they want to address, we  
17          could try to do that, too.  But I  
18          think we simply suggest to them  
19          that they get their -- when they  
20          come, we, -- you know, we just get  
21          this administrative procedure.  I  
22          am happy to work with you on a  
23          letter to send out, but again we  
24          don't want to be sending this

1 letter out to these people at 5:00  
2 or 6:00 this evening either.

3 THE COURT: No, I certainly  
4 agree with that. It would be  
5 helpful to have a letter out, but  
6 a letter out at 5:00 may miss a  
7 number of people, particularly a  
8 Friday. And I guess one of the  
9 things that you are saying that by  
10 virtue of doing this, we would be  
11 in a position once the hearing  
12 starts to review language for  
13 those issues and objections which  
14 you think the parties have already  
15 accommodated so that we can sweep  
16 those off the table as quickly as  
17 possible.

18 MR. MOLL: Yes, Your Honor,  
19 and then Your Honor could simply  
20 say as to Paragraph 2, I  
21 understand there is no objection,  
22 everybody is in agreement, and  
23 then you could move on. And you  
24 could have it right on the record

1           that everybody is accommodated.  
2           We could move through very  
3           quickly.

4                    THE COURT:   That would be  
5           great, and outline from you to the  
6           extent that you can identify the  
7           areas of commonality and the areas  
8           of dispute, that would be  
9           extraordinarily helpful.

10                   MR. DIAMOND:   I think the  
11           way to start is to get this list  
12           and if necessary another copy of  
13           the responses out on e-mail this  
14           morning.   And Peter, I think it  
15           should go out with a cover letter  
16           sent on behalf of all of us.   I  
17           would be happy to have you draft  
18           the language, just to inform  
19           people how we anticipate this  
20           procedure to work.   And as people  
21           come prepared to identify which of  
22           the topics they still think there  
23           is a need to address.   And then  
24           you and I and Mr. Moll can elicit



1 responses at 10:00 and figure out  
2 what really needs to be argued.

3 MR. MOLL: And prepare a  
4 master list for His Honor that we  
5 can all walk through.

6 THE COURT: That is perfect.

7 MR. DIAMOND: Yeah.

8 THE COURT: And of course it  
9 goes without saying that the  
10 overall goal if we can at the end  
11 of this hearing be in a position  
12 to submit something that is  
13 jointly submitted and final, that  
14 would be wonderful. If not, we  
15 will do what we need to do because  
16 I think it is important for me to  
17 get it finalized by June 15.

18 MR. HORWITZ: Your Honor,  
19 one of the administrative points  
20 to ease your burden coming out of  
21 the hearing, I think it is on  
22 Richard, Layton and Fingers'  
23 system, but it probably would make  
24 sense to send you a Word version

1 of the document so that someone  
2 doesn't have to start typing from  
3 scratch since we know that most of  
4 it will be agreed to.

5 THE COURT: That is perfect.

6 MR. DIAMOND: We also have a  
7 red line that shows the changes  
8 that we have agreed to. And  
9 somebody from Richards Layton will  
10 get that over to you today. I'm  
11 not yet in the office since it is  
12 not yet 7 a.m. on the west coast.

13 THE COURT: This was early  
14 for you and I certainly didn't  
15 intend to do it that way. But you  
16 did something at 11 last night.  
17 So it was fair.

18 MR. DIAMOND: Peter, if you  
19 would draft something out, draft  
20 something up, I will obviously be  
21 in the office in a couple of hours  
22 and turn that around immediately.  
23 And I would ask Dan Small to do  
24 the same on behalf of the class.

1 If we can get something on the  
2 wire before noon today California  
3 time, that will catch everybody.

4 MR. MOLL: Might even try to  
5 do it be a little more ambitious  
6 than that because that is 3 our  
7 time. Again it is a Friday, and  
8 just so people have plenty of time  
9 so we have the best chance of it  
10 going as smoothly and efficiently  
11 as possible.

12 MR. DIAMOND: That is fine.  
13 Do me one favor, if you e-mail me,  
14 copy Kenyon Woolley. She will be  
15 in the office before me.

16 MR. SMALL: You can send it  
17 to me also. This is Dan Small.

18 THE COURT: My colleagues  
19 here in Delaware I expect have  
20 this information. If it is  
21 important to be in touch with me  
22 over the weekend, please don't  
23 hesitate to conference. We will  
24 not have the benefit of a court

1 reporter, but my cell phone number  
2 is 302-379-5755. 302-379-5755. I  
3 know you will not use it unless  
4 you have to. So if you have to  
5 use it, I am happy to be on the  
6 other end of a telephone call.

7 MR. DIAMOND: Fine, Your  
8 Honor.

9 MR. MOLL: This is Peter  
10 Moll. We will obviously copy Your  
11 Honor on what we send to the third  
12 parties so you have that.

13 MR. HOLZMAN: Your Honor,  
14 Jim Holzman, small point, small  
15 suggestion, whoever is drafting  
16 this letter to the third parties,  
17 there ought to be an indication or  
18 announcement as to the change in  
19 the courtroom.

20 THE COURT: Yes, that would  
21 be helpful.

22 MR. MOLL: Anticipated  
23 putting that in.

24 THE COURT: Thank you for

1           that courtesy. I think with that  
2           unless somebody tells me that it  
3           is important to reconvene after  
4           reading the most recent submittal,  
5           I think we have accomplished  
6           hopefully a lot. And we are  
7           building a structure that will get  
8           us hopefully to end game on  
9           Monday.

10                   MR. MOLL: Your Honor, Peter  
11           Moll for Intel, that is fine.  
12           Again as you go through the  
13           submittal, we haven't had a chance  
14           to study. But we do feel it is  
15           important that each of these third  
16           parties that shows up be given an  
17           opportunity to be heard and we  
18           don't agree with some of the  
19           suggestions put in there. But I  
20           think on the basis of the  
21           procedures that Your Honor has  
22           outlined and the letter going out,  
23           I think we will be in very good  
24           shape for this hearing on Monday.

1 THE COURT: If you need to  
2 contact me during the course of  
3 the day, please do both the e-mail  
4 and the two numbers you have for  
5 me because sometimes I'm simply  
6 not at a screen. Thank you all  
7 very much.

8 MR. MOLL: Thank you, Your  
9 Honor, have a nice weekend. See  
10 you Monday.

11 (Witness excused.)

12 (Teleconference concluded at  
13 approximately 9:44 a.m.)  
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CERTIFICATE

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I, DOTTYANN Y. WALSH, a Notary Public and Certified Shorthand Reporter of the State of Delaware, do hereby certify that the foregoing is a verbatim transcript of the teleconference hearing as taken stenographically by and before me at the time, place and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

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DOTTYANN Y. WALSH, CSR  
Notary Number: 20051147009  
Notary Expiration: April 14, 2007  
CSR Number: 251-RPR  
Dated: June 9, 2006





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