

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ADVANCED MICRO)	
DEVICES, INC., a)	
Delaware)	
corporation, and AMD)	Civil Action No.
INTERNATIONAL SALES)	05-441- JJF
& SERVICE, LTD., a)	
Delaware)	
corporation,)	
)	
Plaintiff,)	
)	
v.)	
)	
INTEL CORPORATION, a)	
Delaware)	
corporation, and)	
INTEL KABUSHIKI)	
KAISHA, a Japanese)	
corporation,)	
Defendants.)	

IN RE:)	
INTEL CORP.)	
MICROPROCESSOR)	
ANTITRUST LITIGATION)	Civil Action No.
PHIL PAUL, on behalf)	05-MD-1717-JJF
of himself and all)	
others similarly)	Civil Action
situated,)	No. 05-485-JJF
)	
Plaintiffs,)	CONSOLIDATED ACTION
)	
v.)	
)	
INTEL CORPORATION,)	
)	
Defendant.)	

Reporter: ELLEN CORBETT HANNUM, RMR, CMRS, CLR

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1 -----
 2 A teleconference was taken pursuant to notice
 3 before Ellen Corbett Hannum, Registered Merit Reporter,
 4 in the law offices of Blank Rome, LLP, 1201 N. Market
 5 Street, Suite 800, Wilmington, Delaware, on Thursday,
 6 September 20, 2007, beginning at approximately 11:06
 7 a.m., there being present:
 8
 9 BEFORE: HONORABLE VINCENT J. POPPITI, JR.
 10
 11 APPEARANCES:
 12
 13 RICHARDS, LAYTON & FINGER, P.A.
 14 BY: FREDERICK L. COTTRELL, III,
 15 ESQ.
 16 STEVEN J. FINEMAN, ESQ.
 17 and
 18 O'MELVENY AND MYERS
 19 BY: LINDA SMITH, ESQ.
 20 MARK SAMUELS, ESQ.
 (Los Angeles, California)
 21
 22 CHUCK DIAMOND, ESQ.
 (Wilmington, Delaware)
 23 Attorneys for Advanced Micro
 24 Devices, Inc. and AMD International
 Sales & Service, Ltd.
 (Continued next page)
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1
 2 POTTER ANDERSON & CORROON
 BY: RICHARD L. HORWITZ, ESQ.
 and
 3 GIBSON DUNN
 BY: DANIEL FLOYD, ESQ.
 4 ROBERT COOPER, ESQ.
 RICHARD LEVY, ESQ.
 5 KAY KOCHENDERFER, ESQ.
 (Los Angeles, CA)
 6 INTEL CORPORATION
 JOAN LEVY, ESQ.
 7 In-house Counsel
 8 Attorneys for Intel Corporation
 and Intel Kabushiki Kaisha
 9
 10 PRICKETT, JONES & ELLIOTT, P.A.
 BY: JAMES L. HOLZMAN, ESQ.
 11 Interim Liaison Counsel and
 12 Attorneys for Phil Paul, on behalf
 of himself and all others similarly
 13 situated
 14 COHEN, MILSTEIN, HAUSFELD & TOLL,
 P.L.L.C.
 15 BY: BRENT W. LANDAU, ESQ.
 (Philadelphia, Pennsylvania)
 16 Attorneys for the Class
 Plaintiffs
 17
 18 ALSO PRESENT: ELIZABETH OESTREICH, ESQ.
 19 MARY ANN MULLANEY, ESQ.
 Blank Rome
 20 Jennifer Martin and Eric Friedberg
 Stroz Friedberg
 21 -----
 22 SPECIAL MASTER POPPITI: Okay. Let's go
 23 back and, if you would, do a role call for the court
 24 reporter and for the record, please.

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1 MR. COTTRELL: Fred Cottrell and Steve
 2 Fineman will be here for a few minutes and, of course, my
 3 co-counsel from O'Melveny, Chuck Diamond, Mark Samuels
 4 and Linda Smith.
 5 SPECIAL MASTER POPPITI: Thank you, and
 6 good morning.
 7 MS. SMITH: Your Honor, he meant Linda
 8 Smith, Chuck Diamond, and Mark Daniels.
 9 SPECIAL MASTER POPPITI: As always,
 10 Linda. It always goes up to the top of the line, anyway.
 11 MS. SMITH: Okay. Thank you, Your
 12 Honor.
 13 MR. HOLZMAN: Your Honor, Jim Holzman,
 14 Prickett Jones, Wilmington, for the Class, and on the
 15 phone with me is Brent Landau of Cohen, Milstein.
 16 SPECIAL MASTER POPPITI: Thank you.
 17 MR. HOLZMAN: I don't know if Dan Small
 18 is on the line or not.
 19 MR. LANDAU: I don't believe he is.
 20 Brent Landau, good morning, Your Honor.
 21 SPECIAL MASTER POPPITI: Good morning.
 22 MR. HORWITZ: Good morning, Your Honor.
 23 In Wilmington, it's Rich Horwitz for Intel. I know that
 24 some people are on the line, I'm not sure I have

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1 everyone, but Bob Cooper and Dan Floyd are on. And I'm
 2 not sure who else is there right now from Gibson Dunn or
 3 from the other firm, so I will let others speak for
 4 themselves.
 5 MR. LEVY: Kay Kochenderfer and Rich
 6 Levy are here from Gibson Dunn for Intel.
 7 SPECIAL MASTER POPPITI: Thank you very
 8 much.
 9 MS. MARTIN: Jennifer Martin from Stroz
 10 Friedberg.
 11 SPECIAL MASTER POPPITI: Thank you.
 12 MR. FREIDBERG: Eric Friedberg from
 13 Stroz Friedberg.
 14 SPECIAL MASTER POPPITI: Thank you.
 15 MS. MULLANEY: Mary Ann Mullaney, Blank
 16 Rome.
 17 MS. LEVY: Your Honor, Joan Levy from
 18 Intel.
 19 SPECIAL MASTER POPPITI: I expect that
 20 rounds it out for everyone.
 21 First of all, thank you for
 22 accommodating me on going forward with this
 23 teleconference. One of the first items I believe we
 24 agenda'd yesterday was to deal with the order involving

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1 informal interviews. And I did sign that order earlier
 2 this morning with the change that I had recommended and
 3 that you had adopted. So that order is signed. I don't
 4 know whether it has been docketed yet.

5 MR. DIAMOND: Your Honor, this is Chuck
 6 Diamond. We probably need to have that at least endorsed
 7 by Judge Faman because, at your suggestion, we added a
 8 paragraph which alters the timing from what the federal
 9 rules would otherwise prescribe.

10 SPECIAL MASTER POPPITI: Yes. I agree
 11 with that.

12 MR. DIAMOND: Okay.

13 SPECIAL MASTER POPPITI: And you know
 14 what, I am glad you mentioned that because I may have
 15 left it on my desk with just my signature, but I can
 16 gather that shortly. But thank you for bringing that to
 17 my attention. You are absolutely correct.

18 MR. COTTRELL: Your Honor, it's Fred
 19 Cottrell. I'm looking at the order now that you just
 20 signed.

21 SPECIAL MASTER POPPITI: Yes.

22 MR. COTTRELL: And maybe the best thing
 23 to do is Steve can send you over a new signature page,
 24 and below yours have the signature for Judge Farnan.

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1 SPECIAL MASTER POPPITI: Yes. That's
 2 perfect. I appreciate your doing it that way.

3 MR. COTTRELL: Sort of like the one you
 4 sent him by letter the other day.

5 SPECIAL MASTER POPPITI: Yes. That
 6 would be perfect.

7 MR. COTTRELL: We will do that.

8 SPECIAL MASTER POPPITI: Thank you.

9 Then the other reason why I thought it
 10 would be important to have some discussion on the
 11 procedural posture of the response of AMD and the Class
 12 to the proposed remediation plan impacting on pages 30
 13 and 39 of that plan, the reason why I thought it may make
 14 sense to have some discussion is to, hopefully, generate
 15 some efficiency on your end, and ultimately efficiency
 16 for the process moving forward.

17 So what I would like to do is give you
 18 some impressions, if you will, and perhaps some guidance
 19 expecting that I'm going to need some input that would
 20 impact on that guidance. So it's not a matter of
 21 entering an order, it's a matter of, hopefully, moving
 22 everyone or suggesting that everyone move in a particular
 23 direction so that ultimately whatever I have to decide,
 24 it will be in a posture that is more timely; that is,

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1 earlier in time than later in time.

2 So let me suggest this, and invite your
 3 discussion as we go along. First of all, it seems to me,
 4 and I am making no judgments here because I realize I
 5 only have one piece of a bookend and I don't have the
 6 other bookend on this particular issue, it seems to me
 7 that AMD and the class, they have all but conceded that
 8 Intel has done all that it can do to remediate. And I
 9 realize in the submittal, at page 10 of that submittal,
 10 it's stated a little differently, because at page 10, in
 11 that first full paragraph at 10, it says that it is
 12 probably the case that Intel can do little more than it
 13 is doing to remediate.

14 I expect, given what ultimately AMD and
 15 Intel -- AMD and the Class conclude, that it would make
 16 sense for me to invite an actual concession so that there
 17 can be a form of order that identifies and memorializes
 18 that concession. And within that same form of order does
 19 what I think you intend me to have me do, consistent with
 20 foot into the No. 36, and that is, to marry into that
 21 order, subject to a change of that by a stipulation that
 22 you are presently discussing, that would build dates into
 23 that order as well. And my first question is: Does that
 24 make sense?

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1 MR. SAMUELS: Your Honor, this is Mark
 2 Samuels.

3 Your Honor, we do concede, for a lot of
 4 good reasons, that we are not going to ask Your Honor to
 5 order Intel to do more than it proposes to do in its
 6 effort to remediate. Of course, we don't concede that
 7 those efforts are going to be adequate to remediate, and
 8 we do have the issue as well with the data reporting.

9 SPECIAL MASTER POPPITI: Okay. And I do
 10 want to get to that.

11 MR. SAMUELS: But, Your Honor, we would
 12 be prepared to make the concession that Your Honor
 13 invited subject to the data reporting.

14 As for the Footnote 36, I think Your
 15 Honor either has before you or perhaps has already signed
 16 case management -- I believe it's called Case Management
 17 Order No. 2.

18 SPECIAL MASTER POPPITI: Yes. That's
 19 correct.

20 MR. SAMUELS: And that order does, that
 21 order supersedes Footnote 36, and it does affect the --
 22 it does implement the agreement that Intel will complete
 23 its remediation by February 15.

24 SPECIAL MASTER POPPITI: I expected it

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1 did. And I did not know whether there would be any other
 2 dates that would be important to be part of the order
 3 that reflects the concession.
 4 MR. SAMUELS: Beyond the data reporting,
 5 Your Honor, no.
 6 SPECIAL MASTER POPPITI: Okay.
 7 MR. COOPER: Your Honor, Bob Cooper.
 8 We are actually in the process of filing
 9 a response after the response that was filed by AMD, and
 10 that's due Tuesday, and we will have a response on
 11 Tuesday. Basically in the response, among other things,
 12 we recognized that the plaintiffs are not suggesting that
 13 we should be doing more.
 14 SPECIAL MASTER POPPITI: Right.
 15 MR. COOPER: And it strikes me that it
 16 is appropriate at this point for Your Honor to enter an
 17 order that will confirm that that is the remediation plan
 18 if that's your bent.
 19 SPECIAL MASTER POPPITI: And that was my
 20 intent, Mr. Cooper, because I didn't want you to be
 21 spending time addressing argument. I was hoping to have
 22 this conversation today to permit you to be more focused
 23 and perhaps more efficient in what you sent to me. So I
 24 am prepared -- I haven't heard from the Class yet, but I

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1 am prepared to enter a form of order that would be
 2 generated by you reflecting the concession and moving on
 3 with respect to the remediation plan itself.
 4 MR. LANDAU: Your Honor, this is Brent
 5 Landau for Class plaintiffs.
 6 SPECIAL MASTER POPPITI: Yes.
 7 MR. LANDAU: We have no objection to
 8 that approach.
 9 SPECIAL MASTER POPPITI: Okay.
 10 Then let me turn to the issue of the
 11 statistics.
 12 As I understand the request from AMD and
 13 the Class, it is to generate a variety of statistical
 14 information that appears to be designed to test the
 15 efficacy of the remediation effort itself, which I would
 16 expect in the end would be used either to support or to
 17 defend against a request for sanctions. That's at least
 18 an observation and not -- again, I stress not a
 19 conclusion or a finding in any respect.
 20 MR. SAMUELS: Your Honor, it's Mark
 21 Samuels.
 22 You are absolutely correct.
 23 SPECIAL MASTER POPPITI: Okay. So I do
 24 have some questions, then, that I think it would be

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1 important for Intel and, perhaps, for AMD to address in a
 2 fashion that may be different from where we are now,
 3 because where we are now is AMD and the Class have made
 4 request and Intel is in the process of responding to the
 5 overall document, and within that document the request
 6 that you have made.
 7 And my first question -- and it is a
 8 rhetorical question for purposes of either having some
 9 discussion or for helping everyone frame the issue here.
 10 My question is: Is the issue with respect to the request
 11 for and the generation of this statistical information
 12 ripe for consideration?
 13 MR. COOPER: Your Honor, Bob Cooper.
 14 On that point, we are planning to
 15 respond in general to the seven types of reports that
 16 plaintiff has requested, and commenting on what we think
 17 makes sense and what we think could be reasonably done,
 18 as well as the timing.
 19 SPECIAL MASTER POPPITI: Okay.
 20 MR. COOPER: I think it might make sense
 21 from the parties' viewpoint to wait for us to make our
 22 reply, which is on Tuesday. And then I think as a
 23 practical matter there is going to have to be some
 24 meeting and conferring among the parties as to what

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1 realistically we can expect to do.
 2 SPECIAL MASTER POPPITI: You are reading
 3 my mind. That's what I was hoping would be occurring.
 4 And I am wondering in light of what you have just said, I
 5 am happy to read what you intend to give to me. At the
 6 same time, if you believe, and if I hear others say that
 7 they expect that it would be more efficient to have
 8 discussion among you before you send anything to me, then
 9 I think it would be wise for me to say have the
 10 discussion and let's not look at Tuesday for a response,
 11 because what I would prefer to see is, if you all agree
 12 that it is important to determine what buckets need to be
 13 couldn't instructed, what information needs to be in
 14 those buckets, what the timing of it all is in terms of
 15 its creation, in terms of its -- when you actually
 16 provide the information, and that can all occur more
 17 efficiently in meet and confer as opposed to having
 18 correspondence sent to me in the first instance. Then I
 19 would prefer you meet and confer.
 20 MR. COOPER: Your Honor, what we are
 21 proposing to do in the report is more in the nature of a
 22 general statement. We certainly agree that plaintiffs
 23 would be entitled to a full report. We have specific
 24 thoughts we mentioned in the report. I think that will

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<p>1 give us the framework for discussions going forward. 2 We have other reasons we need to final 3 on Tuesday, frankly. We have been accused of 4 stonewalling and various other things that we do want to 5 respond to. 6 SPECIAL MASTER POPPITI: Mr. Cooper, 7 please understand, if you need to do that, then do it. 8 MR. COOPER: But what I was going to 9 suggest, Your Honor, in that regard, is I really think 10 what we ought to do is plan to, in the near future, have 11 a meet and confer or maybe one or two of them involving 12 the technical people. 13 SPECIAL MASTER POPPITI: Okay. 14 MR. COOPER: And maybe Eric and Jennifer 15 should be present. 16 SPECIAL MASTER POPPITI: Again -- are 17 you reading my notes? 18 MR. COOPER: Maybe I should be quiet and 19 listen. 20 SPECIAL MASTER POPPITI: No, no. 21 Please. 22 MR. COOPER: I think that's the best way 23 to proceed. Obviously, these reports will become 24 something that can be created as a practical matter, in</p>	<p>1 SPECIAL MASTER POPPITI: Okay. All 2 right. That's really my, the purpose of my wanting to 3 have had the opportunity to speak with you. I, then, do 4 anticipate receiving something from Intel on Tuesday. I 5 would look forward to the generation of a form of order 6 that memorializes the concession. And if it can be 7 provided by end of business on Tuesday as well, that 8 would be great. And I look forward to some status report 9 as to where you all are on the process that we just 10 discussed. And I think the best way to do that is just 11 quite simply pick, even though we don't necessarily need 12 the phone time for purposes of a deadline, let's use the 13 next scheduled phone date, which is not Thursday, it 14 would be the following Thursday. I don't have a calendar 15 -- I do have a calendar in front of me. 16 MR. COOPER: Two weeks from today, Your 17 Honor. 18 SPECIAL MASTER POPPITI: Yes. Two weeks 19 from today. Use that as the deadline for status, if 20 everyone agrees, and just tell me where you are. 21 MR. SAMUELS: That's fine with us, Your 22 Honor. Mark Samuels. 23 MR. COOPER: Very good, Your Honor. Bob 24 Cooper.</p>
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<p>1 our view, after the remediation has been completed, that 2 is, after we have pull together the complete global 3 database and then managed to pull from that global 4 database that which will be used to remediate the report 5 for the individual custodians who are at issue. 6 MR. SAMUELS: Your Honor, this is Mark 7 Samuels. 8 I think that makes a lot of sense. A 9 lot of this data really can't be generated until the 10 remediation has been -- until all the remedial data has 11 been produced. So we are happy to sit down with 12 Mr. Cooper and Mr. Friedberg and others and hammer out a 13 reporting structure that will give us, that will actually 14 give both sides the information that they need in order 15 to make the arguments that will be coming sooner or 16 later. 17 SPECIAL MASTER POPPITI: That's perfect. 18 And I would expect, then -- does anyone see the need to 19 have what we have just said memorialized in a form of 20 order or does this record stand for that? 21 MR. COOPER: I think this record is 22 adequate, Your Honor. 23 MR. SAMUELS: Mark Samuels, Your Honor. 24 We agree, Your Honor.</p>	<p>1 SPECIAL MASTER POPPITI: Good. 2 MR. LANDAU: Your Honor, this is Brent 3 Landau on behalf of Class plaintiffs. I wanted to raise 4 one brief issue with respect to the report and 5 recommendation that Your Honor entered on Intel's motion 6 to compel financial information. 7 SPECIAL MASTER POPPITI: Yes. 8 MR. LANDAU: As Your Honor knows, that 9 report and recommendation attached as an exhibit a 10 proposed order endorsed by Your Honor and for Judge 11 Farnan's signature as well that adjusted the deadlines 12 for filing any objections. 13 SPECIAL MASTER POPPITI: Yes. 14 MR. LANDAU: I don't believe that as of 15 now that's been signed by Judge Farnan and I did notice 16 that unlike some other times when Your Honor has 17 submitted orders of that type to Judge Farnan there was 18 no cover letter or other indication that he needed to do 19 something with it in order to make it effective. But I 20 just wanted to bring that to Your Honor's attention. 21 SPECIAL MASTER POPPITI: I sincerely 22 appreciate that. I will make contact, during the course 23 of the day. I do know that Judge Farnan has two juries 24 this week. So I will make the contact with his case</p>

1 manager, and we will report back to you.
2 MR. LANDAU: Thank you very much, Your
3 Honor.
4 SPECIAL MASTER POPPITI: I would
5 anticipate -- I see no reason why he would not sign the
6 document. However, it's certainly his prerogative to
7 sign or not to sign. So I will make an effort to see
8 where it is during the course of the day.
9 MR. LANDAU: Thank you, Your Honor.
10 SPECIAL MASTER POPPITI: Thank you.
11 Anything else, then, please?
12 MR. SAMUELS: No, Your Honor.
13 SPECIAL MASTER POPPITI: Thank you all.
14 Have a great day.
15 (The conference ended at 11:30 a.m.)
16
17
18
19
20
21
22
23
24

1 CERTIFICATE

2
3 STATE OF DELAWARE:
4 NEW CASTLE COUNTY:

5 I, Ellen Corbett Hannum, a Notary Public within and
6 for the County and State aforesaid, do hereby certify
7 that the foregoing teleconference was taken before me,
8 pursuant to notice, at the time and place indicated; that
9 the statements of participants were correctly recorded in
10 machine shorthand by me and thereafter transcribed under
11 my supervision with computer-aided transcription; that
12 the transcript is a true record of the statements; and
13 that I am neither of counsel nor kin to any party in said
14 action, nor interested in the outcome thereof.

15 WITNESS my hand and official seal this 21st day of
16 September A.D. 2007.
17

18 _____
19 Ellen Corbett Hannum, RMR, CMRS
20 Notary Public - Reporter
21 Delaware Certified Shorthand Reporter
22 Certification No. 118-RPR
23
24

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