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December 4, 2008

## VIA ELECTRONIC FILING AND HAND DELIVERY

Special Master Vincent J. Poppiti  
Blank Rome LLP  
1201 Market Street, Suite 800  
Wilmington, DE 19801

Re: In re Intel Corporation, C.A. Nos. 05-md-1717, 05-441 and 05-485

Dear Special Master Poppiti:

On behalf of our non-party client, Kevin B. Rollins, we join in the arguments raised in the December 4, 2008 letter brief submitted by counsel for Dell Inc. and current Dell employees with respect to the unreasonably burdensome nature of the depositions proposed by AMD and the Class in this matter.<sup>1</sup>

The deposition of Mr. Rollins, as currently proposed, would last almost triple the period presumed as reasonable under the Federal Rules of Civil Procedure.<sup>2</sup> A deposition of such lengthy duration would impose an undue burden of the sort contemplated under Rule 45(c). *Fed. R. Civ. P. 45(c)(3)(A)(iv)*. The Federal Rules of Civil Procedure establish a presumption of reasonableness that “unless otherwise stipulated or ordered by the court, a deposition is limited to 1 day of 7 hours.” *Fed. R. Civ. P. 30(d)(1)*. The Advisory Committee Notes to the 2000 Amendment to Federal Rule 30(d) state, in relevant part:

“...[t]he presumptive duration may be extended, or otherwise altered, by agreement. Absent agreement, a court order is needed. The party seeking a court order to extend the examination, or otherwise alter the limitations, is expected to show good cause to justify such an order.” *Fed. R. Civ. P. 30 Advisory Committee's Notes*.

AMD has failed to provide any reasonable explanation or “good cause” as to why the presumption established by Federal Rule 30(d) should be disregarded. While we expect counsel for AMD to argue that Mr. Rollins’ name appears on many documents produced

<sup>1</sup> We reserve all rights to move to quash or for a protective order in the District of Massachusetts.

<sup>2</sup> AMD seeks at least fourteen hours of testimony from Mr. Rollins. Class Plaintiffs seek an additional two hours and Intel seeks three and one half hours on the assumption that Mr. Rollins’ deposition would be limited to one seven hour day. If the deposition were longer than seven hours Intel has indicated it may seek more time.

by Dell, that alone is not enough. There is nothing to distinguish this matter, or Mr. Rollins' role related thereto, from the many other large, complex litigations underway every day to which the seven hour presumption is applied.

At the outset of our discussions with counsel for AMD attempting to reach agreement as to a reasonable duration for Mr. Rollins' deposition, counsel informed us that she did not expect to be able to achieve seven hours of on-the-record testimony in a single day. She anticipates being able to achieve approximately five and one half hours of on-the-record testimony per day. This would amount to approximately four calendar days of deposition testimony for Mr. Rollins, who is a non-party. Mr. Rollins has a very busy professional life, including his current role as a Senior Advisor at TPG Capital. It is an unreasonable and unnecessary burden for AMD to expect Mr. Rollins to put his life on hold for what amounts to almost one full week of his time. This is exactly the type of abuse from which non-parties should be protected. As the First Circuit observed, "concern for the unwanted burden thrust upon nonparties is a factor entitled to special weight . . ." *Cusumano v. Microsoft Corp.*, 162 F.3d 708, 717 (1st Cir. 1998) (affirming, in antitrust case, denial of motion to compel subpoenaed materials from nonparties).

In its evaluation of the jurisdictional issue in this matter, the Court has repeatedly noted the importance of the MDL process in promoting efficiency among the parties. The principle underlying the seven-hour presumption under Federal Rule 30(d) is that the time and resources of non-parties should be protected as well. This can be accomplished by the Court directing that the deposition of Mr. Rollins be indefinitely delayed until other Dell witnesses have been deposed and a reasonable time limit can be assessed for his deposition. This will enable the parties to take the necessary steps to distill down the scope of issues and documents to be addressed during Mr. Rollins' deposition and to be prepared to conduct the deposition within the seven-hour presumptive period under the Federal Rules. AMD should not be permitted to occupy an unreasonable amount of Mr. Rollins' time for what amounts to little more than a fishing expedition.

In submitting this letter through counsel, Mr. Rollins is not admitting that he is subject to the jurisdiction of this Court with respect to any issues that may arise.

Respectfully,

/s/ Lauren E. Maguire

Lauren E. Maguire

LEM: nml

cc: Frederick L. Cottrell, III, Esquire (by hand)  
Richard L. Horwitz, Esquire (by hand)  
James L. Holzman, Esquire (by hand)