

# ASHBY & GEDDES

ATTORNEYS AND COUNSELLORS AT LAW

500 DELAWARE AVENUE

P. O. BOX 1150

WILMINGTON, DELAWARE 19899

TELEPHONE  
302-654-1888

FACSIMILE  
302-654-2067

December 22, 2008

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

**VIA ELECTRONIC FILING AND HAND DELIVERY**

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

Dear Special Master Poppiti:

We submit the following brief response to Adam Balick's letter submitted to this Court earlier today and in support of our request for a teleconference today on the current disagreement between AMD and Class Plaintiffs on the one hand and Dell Inc. ("Dell") and current Dell employee Dan Allen with respect to his deposition dates.<sup>1</sup>

AMD has consistently reminded Dell and this Court that the depositions of the Dell witnesses must start as soon as humanly possible—going so far as to threaten to move for contempt if Mr. Allen did not show for deposition on December 8, 2008 (12.1.2008 Transcript 48:10-21)—and subsequently stated that it would work with the witnesses' schedules (12.8.2008 Transcript 25:22-24). During the December 8, 2008 hearing with this Court, Intel apprised this Court and Dell that it had a conflict in late December (12.8.08 Transcript 31:7-12); AMD did nothing to similarly apprise anyone of a potential conflict.

With that in mind, Mr. Allen was able to arrange his schedule to provide two consecutive days in December and one in January for the 22.5 hours of time that has been ordered for his deposition. Dell sought pre-clearance of the December dates with Intel given their disclosed conflict and informed all parties of the December dates on December 15. Yet, AMD now claims that it cannot begin the deposition of Mr. Allen until after January 2, 2009. The witness, a third-party to this MDL proceeding, has already altered personal and work plans to accommodate AMD's time request, Mr. Allen's counsel has similarly altered holiday travel schedule to accommodate the witness' availability, and AMD failed to provide anyone with notice of Ms. Smith's unavailability. A case the size and scope of this unprecedented MDL proceeding surely is not contingent on the schedule of one AMD lawyer. Moreover, Mr. Allen's January schedule is much more congested and is likely unavailable for consecutive deposition dates until March.

As for Class Plaintiffs' objection that they should not be made to travel for two trips to Austin for the same deposition, Class Plaintiffs were allocated only 2 hours of deposition time.

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<sup>1</sup> As Dell has stated in its previous submissions to this Court, in submitting this letter brief, Dell is not admitting that it is subject to the jurisdiction of this Court with respect to any issues that may arise. Further, we reserve all rights to have this and any related dispute resolved in the Western District of Texas and to appeal the previous orders of this Court relating to the deposition disputes regarding Dell.

There is no requirement—especially at the considerable inconvenience of a third-party witness—that the deposition dates be consecutive or that Class Plaintiffs even physically attend the other days of testimony. Further, Class Plaintiffs have failed to remit to Dell the \$66,666.66 they agreed to pay Dell to produce the second inspection set, for which Intel and AMD remitted their portions to Dell a month ago.

Finally, this Court has ordered that current Dell employees Dan Allen, Jeff Clarke, and Alan Luecke sit for deposition times of 22.5, 22.5, and 15 hours, respectively. These ordered times slightly exceed the 7-hour durational limit for a single day of testimony. Nevertheless, we request that these depositions be taken in such a manner as to ease the burden on these non-parties by increasing the daily limit to allow for these depositions to be completed in 3 days for Mr. Allen and Mr. Clarke and 2 days for Mr. Luecke rather than extending the depositions for an additional partial day.

We look forward to discussing these issues with Your Honor this afternoon.

Respectfully,

*/s/ Lauren E. Maguire*

Lauren E. Maguire

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