



1313 North Market Street
P.O. Box 951
Wilmington, DE 19899-0951
302 984 6000

www.potteranderson.com

W. Harding Drane, Jr.
Partner
Attorney at Law
wdrane@potteranderson.com
302 984-6019 Direct Phone
302 778-6019 Fax

January 7, 2009

**VIA ELECTRONIC FILING
AND HAND DELIVERY**

The Honorable Vincent J. Poppiti
Blank Rome LLP
Chase Manhattan Centre
1201 Market Street, Suite 800
Wilmington, DE 19801

**Re: Advanced Micro Devices, Inc., et al. v. Intel Corporation, et al.,
C.A. 05-441-JJF; MDL No. 05-1717-JJF**

Dear Special Master Poppiti:

We write in response to AMD's letter of January 6, 2009.¹ AMD wants the Special Master to impose a rule that only 40 percent of the time used for a translated deposition should be counted against the limits. Intel does not dispute that a translated deposition takes somewhat longer than depositions conducted in English, and indeed Intel proposed when the parties were discussing time limits for individual depositions that a standard translated deposition be 10 1/2 hours, not 7. So, the issue of translated depositions is not unexpected. The Special Master and the Court allocated each party overall hours, presumably with all the issues in mind. AMD makes no showing that it needs more hours at this point — in fact, AMD will use its hours in total only by severely backloading the depositions. If AMD in fact runs out of hours, they can make an application then — at which point the parties can present whether the overall deposition plan, including the length of depositions, was reasonable.

¹ At the outset, Intel objects to the manner in which AMD rushed to raise this issue. Although there is a reserved time slot, there is no "regular Thursday call" unless the parties discuss and decide that one should be requested. Here, AMD failed to contact Intel to discuss scheduling a call for this Thursday. Further, on January 15, 2009, the parties are scheduled to submit their joint bi-monthly report to update the depositions hours used through December 2008. In this report, the parties are explicitly asked to report any deposition-related issues that require Your Honor's attention. That would have been the proper avenue for raising the issue of translated depositions.

In addition, AMD's proposal — that allows AMD to count only two hours for every five hours actually spent in examination of a witness when that witness needs to use an interpreter — is unreasonable. AMD's proposal is based on exactly *one* translated deposition of an Intel witness (Ligang Lu) and *one* translated deposition of a third party witness (Alex Hsu). So far only two witnesses out of the twenty-nine depositions by AMD through end of December 2008 used interpreters. Two translated depositions do not allow a fair extrapolation of how much longer translated depositions may take.² And, of the twenty-eight additional depositions of Intel witnesses that AMD noticed for January and February 2009, Intel expects that five Intel witnesses may require interpreters. It is thus premature to adopt a formula, and an unreasonably low formula at that, to address the issue of translated depositions.

AMD's suggestion that Intel is using translated depositions to delay is incorrect and unfair. The only Intel witness so far to use a translator, Ligang Lu, is a foreign national and not a native English speaker. The ability to communicate in writing in English and his preparation for deposition without an interpreter does not "conclusively demonstrate" that Intel witnesses have asked for interpreters when they are not needed. Being subject to examination by opposing counsel in an oral deposition under oath is very different from reading or writing in English when one can take the necessary time to ensure the correct usage and meaning of words. The witness has the right to understand fully the questions being asked. Likewise, there is a difference between a videotaped deposition where every word is transcribed and recorded and a meeting with one's counsel where nothing is transcribed.

Finally, Alex Hsu of Supermicro is a third-party witness who Intel does not control.³ This is important to note because AMD has just provided notice of its intent to depose at least seventeen third-party witnesses who appear to be located in Tokyo and may need interpreters. (Exh. A [01/05/09 letter from B. Barmann to S. Pirnazar].) AMD can decide how to best allocate its remaining approximately 900 deposition hours. But AMD should not be allowed to use two and a half times the hours as it would use otherwise when it deposes third-party witnesses that require translation.

² But even if two sets of depositions were enough to extrapolate from, the number of pages per hour as calculated by AMD do not support its proposal that only 40% of the actual deposition time should be counted across the board for all translated depositions. AMD's own illustration — a comparison of Ian Yang's deposition with Ligang Lu's — does not support its 40% proposal. Mr. Yang's total deposition time was 11 hours, 31 minutes, and produced 425 pages of testimony, an average of 36.90 pages per hour. Mr. Lu's total deposition time was 7 hours, 1 minute, and produced 136 pages of testimony, an average of 19.38 pages per hour — nearly 53% of Mr. Yang's average.

³ The claim that Intel wants AMD to bear the costs of interpreters is also contradicted by the facts. Even though AMD used seven hours for its examination of Alex Hsu, as compared to Intel's one and a quarter hour, Intel equally split the cost of translation with AMD. (Exh. B [12/02/08 email from D. Ferullo to S. McDonough; 11/05/08 Awesome Linguistic Solutions invoice for translation services].)

January 7, 2009

Page 3

Any translation slowdowns due to AMD witnesses needing interpretation will affect Intel in the same exact manner AMD is affected by Intel witnesses requiring interpretation. Thus, each party should make its own decisions about the best allocation of its total deposition hours. AMD should not be allowed to count only two of every five deposition hours.⁴

Respectfully submitted,

/s/ W. Harding Drane, Jr.

W. Harding Drane, Jr. (#1023)

WHD:cet

cc: Clerk of the Court (via CM/ECF and Hand Delivery)

Counsel of Record (via CM/ECF and Electronic Mail)

897609/29282

⁴ Though it firmly holds that setting a formula for counting translated deposition time is premature, Intel believes that counting two hours for each three hours spent in actual deposition is more reasonable, and is consistent with the Federal Rules. The issue here, though, is that the parties were given total hours, and not individual deposition limits. And AMD has used that flexibility.

EXHIBIT A



O'MELVENY & MYERS LLP

BEIJING
BRUSSELS
CENTURY CITY
HONG KONG
LONDON
NEWPORT BEACH
NEW YORK

400 South Hope Street
Los Angeles, California 90071-2899

TELEPHONE (213) 430-6000
FACSIMILE (213) 430-6407
www.omm.com

SAN FRANCISCO
SHANGHAI
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OUR FILE NUMBER
008,346-163

January 5, 2008

VIA E-MAIL AND U.S. MAIL

Sogol K. Pirnazar, Esq.
Gibson Dunn & Crutcher
333 South Grand Avenue
Los Angeles, California 90071

WRITER'S DIRECT DIAL
(213) 430-7634

WRITER'S E-MAIL ADDRESS
bbarmann@omm.com

Re: AMD v. Intel

Dear Sogol:

Consistent with our agreed-upon protocols regarding deposition logistics, I am providing notice of the Intel and third party depositions that AMD and the Class intend to take in February. Additionally, I am providing notice of certain Intel depositions that we intend to take in March and April to give Intel ample time to make arrangements to make the witnesses available during the weeks requested.

These requested depositions are in addition to the Intel and third party witness depositions already noticed and/or confirmed for January, February, and March, including the depositions of Michael Bates (January 8), Robert Baker (January 8-9), Alan Luecke of Dell (January 13-14), Tom Lacey (January 15-16), Andy Grove (January 19), Jerele Neeld of Dell (January 21-22), Eric Mentzer (January 22), Christine Liang of ASI (January 26), Sean Maloney (January 27-30), Susan Whitney of IBM (January 28-29), Tammy Cyphert (January 28), Eric Kim (February 2-4), Louis Burns (February 4-6), Babak Sabi (February 6), Shmuel "Mooly" Eden (February 10-11), Michael Dell of Dell (February 11 and March 2), John Antone (February 12-13), Jeff Clarke of Dell (February 18-20), Navin Shenoy (February 18-20), Patrick Bliemer (February 20), Jeff McRea (February 23-26), Sophia Chew (February 23-24), Kevin Smith (February 24), Hiroki Ohinata (February 25-26), David Stitzenberg (March 2-4), Arthur Roehm (March 9-13), Kevin Rollins (March 24-25), and Dan Allen of Dell (date TBD).

In addition, AMD and Class are awaiting Intel's response to our requests in my letter dated December 5, 2008, to schedule the depositions of Shuichi Kako, Takehiro Yoshii, Erik Steeb, Abhi Talwalkar, Robert Adano, Greg O'Keefe, Jean-Marc Dubreuil, Ernst Kunerth, Jason Chen and the 30(b)(6) deposition of Intel regarding pricing and data related issues. We also had requested deposition dates for Terence Finley in February, but at this time we are withdrawing our request for Mr. Finley's deposition until further notice.

A. Intel Witnesses

AMD and the Class intend to take the depositions of Charlotte Lamprecht, Jonathan Khazam, Kazuhiko Kitagawa, Masaaki Kinoshita, Matt Dunford, Sudeep Surrender, and Michael Stamps in February, Mike Splinter, Mike Fister, Tom Kilroy, Shunichi Takahashi and Kazumasa Yoshida in March, and Anand Chandrasekher, Craig Barrett and Paul Otellini in April.¹

1. February Depositions

- We would like to take Ms. Lamprecht's deposition in February. We estimate the examination will take approximately seven hours.
- We would like to take Mr. Khazam's deposition during the week of February 9, 2009. We estimate the examination will take approximately five hours.
- We would like to take Mr. Kitagawa's deposition during the week of February 9 or February 16, 2009. We estimate the examination will take approximately fourteen hours.
- We would like to take Mr. Kinoshita's deposition during the week of February 9 or February 16, 2009. We estimate the examination will take approximately fourteen hours.
- We would like to take Mr. Dunford's deposition during the week of February 16 or February 23, 2009. We estimate the examination will take approximately five hours.
- We would like to take Mr. Surrender's deposition during the week of February 16 or February 23, 2009, except on February 24. We estimate the examination will take approximately five hours.
- We would like to take Mr. Stamps's deposition between February 16 and 20. We estimate the examination will take approximately twenty-one hours.

2. March Depositions

- We would like to take Mr. Splinter's and Mr. Fister's depositions during the weeks of March 2 or March 9, 2009, on dates that do not overlap and do not conflict with dates for Jason Chen. We estimate the examinations each will take approximately twenty-eight hours.

¹ As you know, I notified you of our intent to depose Messrs. Kilroy, Chandrasekher, Barrett and Otellini, and proposed dates for their depositions, via email on December 10, 2008.

- We would like to take Mr. Kilroy's deposition during the week of March 16, 2009. We estimate the examination will take approximately twenty-eight hours.
- We would like to take Mr. Takahashi's deposition during the week of March 16 or March 23, 2009. We estimate the examination will take approximately twenty-eight hours.
- We would like to take Mr. Yoshida's deposition during March on dates that do not overlap the dates for Mr. Takahashi. We estimate the examination will take approximately twenty-eight hours.

3. April Depositions

- We would like to take Mr. Chandrasekher's deposition during the week of April 6, 2009. We estimate the examination will take approximately twenty-eight hours.
- We would like to take Mr. Barrett's deposition during the week of April 13, 2009. We estimate the examination will take approximately twenty-eight hours.
- We would like to take Mr. Otellini's deposition during the week of April 20 or the week of April 27, 2009. We estimate the examination will take approximately thirty-five hours.

I assume that you will accept service of a subpoena for any of the foregoing deponents if any subpoena is required, but please let me know immediately if that is mistaken.

Please confirm the dates and appropriate locations for these depositions as soon as possible. Please bear in mind that the above estimates are good-faith estimates of the time we anticipate the examinations will require, but the actual time needed for the examinations may be greater, and the depositions will continue from day to day until completed. Thus, when providing dates for these depositions, please make sure you provide start dates on which the witnesses will be available the following day. Also, if the dates we propose are not acceptable, rather than proposing a single alternate date, please propose several alternate date ranges that work for Intel and the witness.

B. Third Party Witnesses

We intend to take the depositions of the following third party witnesses in February; estimates of the length of our examination of each are in parentheses:

- David Schmoock of Lenovo (7 hours)
- Jeff Benck, formerly of IBM (7 hours)

- Joe Beyers (10 hours), Jeri Callaway (14 hours), James Mouton (8 hours) and Joe Lee (8 hours) of HP
- Stephen Ichinaga of Synnex (7 hours)
- Ed Kamins of Avnet (7 hours)
- Greg Memo and Chuck May of Gateway (7 hours each)
- Pete Manca and Ben Sprachman of Egenera (6 hours each)
- Rick Boyle and Chris Bennett of Network Appliances (3 hours each)

We intend to take the depositions of the following third party witnesses in February, March or April, during two blocks of dates we have reserved at the U.S. embassy in Tokyo (February 17 - March 4, or April 20 - April 30); estimates of the length of our examination of each are in parentheses:

- Hisao Tanaka, Tsutomu Sanada, Yasuhisa Arabiki, Victor Hirashima, Hisatsugu Nonaka, and Atsutoshi Nishida of Toshiba (7 hours each)
- Chiaki Ito, Masami Yamamoto, Kazuhiro Igarashi and Hiroaki Kurokawa of Fujitsu (7 hours each)
- Hiroyuki Masuda and Yoshiaki Tsuda, formerly with NEC (7 hours each)
- Tadao Kondo, Nobuhiro Odake, and Kazuhiko Kobayashi of NEC (7 hours each)
- Bob Ishida and Keiji Kimura of Sony (7 hours each)
- Ryosuke Akahane of Sony (14 hours)

Finally, in addition to the foregoing depositions, we would like to schedule dates to conduct further examinations of Neil Green and Jeff Hoogenboom in March or April. We estimate we will require an additional seven hours with each witness. Please provide dates on which they are available in those months.

Sincerely,

A handwritten signature in black ink, appearing to read "Bernard C. Barmann, Jr.", written in a cursive style.

Bernard C. Barmann, Jr.
for O'MELVENY & MYERS LLP

cc: Daniel S. Floyd, Esq.
Mindy G. Davis, Esq.
Steve Fimmel, Esq.

EXHIBIT B

From: Ferullo, Dominic J. [mailto:dferullo@omm.com]
Sent: Tuesday, December 02, 2008 1:55 PM
To: McDonough, Sarretta C.
Subject: RE: AMD v. Intel -- Translation Invoice

Thank you. We're also processing direct payment for half of the invoice; I'll let Mimi know she should expect two payments of \$1400.

Dominic

From: McDonough, Sarretta C. [mailto:SMcDonough@gibsondunn.com]
Sent: Monday, December 01, 2008 12:11 PM
To: Ferullo, Dominic J.
Subject: AMD v. Intel -- Translation Invoice

Hi Dominic,

Hope you had a wonderful Thanksgiving.

We agree to pay half of the translation services of Mimi, regardless of the proportional difference in our deposition time with Hsu compared to yours.

We have begun processing payment for 1/2 the invoice, which will be sent directly to the translation company. Please do the same on your end.

Thanks,

Sarretta

Sarretta C. McDonough | Gibson, Dunn & Crutcher LLP
333 S. Grand Ave | Los Angeles, California 90071
T: 213.229.7227 | F: 213.229.6227 | smcdonough@gibsondunn.com

This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

1/7/2009

Mimi S.J.Lain dba
AWESOME LINGUISTIC SOLUTIONS
 450 Taraval Street, PMB#232
 San Francisco, CA 94116-2530

Invoice

Invoice #: 2684
 Invoice Date: 11/5/2008
 Due Date: 12/5/2008
 Case:
 P.O. Number: AMD v. HP

Bill To:
 O'Melvey & Myers LLP
 Attention: Dominic J. Ferullo
 400 South Hope Street
 Los Angeles, CA 90071-2899

Description	Hours/Qty	Rate	Amount
Interpretation Service 11/4/08 1pm to 5:15pm - Deposition of Alex Hsu of Supermicro at 2765 Sand Hill Road, Menlo Park, CA Minimum full day 6 hours as per fee schedule,	6	175.00	1,050.00
Travel Allowance 11/4/08 round trip San Francisco to Menlo Park	1	175.00	175.00
Interpretation Service 11/5/08 Day 2 of Deposition of Alex Hsu from 9am to 5:15 pm	8	175.00	1,400.00
Travel Allowance 11/5/08 round trip San Fransico to Menlo Park	1	175.00	175.00

FED TAX ID#20-1080633

Total \$2,800.00

Payments/Credits \$0.00

Balance Due \$2,800.00

Phone #
415-664-9612

E-Mail
mimilain@yahoo.com