



Phone: (302) 425-6410
Fax: (302) 428-5132
Email: Poppiti@BlankRome.com

March 30, 2009

Mr. Per Hellstrom
Competition (COMP.C.3)
European Commission
B-1049 Brussels
Belgium

Re: Advanced Micro Devices, Inc., et al. v. Intel Corporation, et al. C.A. No. 05-441-JJF, In re Intel Corporation, C.A. No. 05-MD-1717-JJF, and Phil Paul, et al. v. Intel Corporation, C.A. 05-485-JJF

Dear Mr. Hellstrom,

I am the Special Master for the above-captioned AMD v. Intel case which is currently pending in the U.S. District Court for the District of Delaware ("the U.S. litigation"). As Special Master, I am charged with the responsibility of, inter alia, presiding over discovery disputes between the parties and making recommendations to the Court regarding same.

I am currently considering AMD's Expedited Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence in Civil or Commercial Matters (the "Request"). I have been advised that Intel recently made the Commission aware of the Request. For your convenience, a copy of the Request is attached as Exhibit A. Specifically, AMD asks that I recommend the Court issue Letters Rogatory directed to the appropriate judicial authorities in France and Italy, requesting production of the factual submissions and other documents that NEC Computer SAS and Acer Italy Srl submitted to the Commission. The Request seeks both pre-existing documents as well as factual submissions and responses submitted to the Commission that are not part of a Leniency Application.

As you can see, the Request had its genesis in what Intel claims to have been an inadvertent production of the unredacted version of the European Commission Statement of Objections sent to Intel. As you know, AMD has been in receipt, from the Commission, of a redacted version of the Statement of Objections.

AMD has advised that it intends to use the unredacted version of the Statement of Objections produced by Intel in the U.S. litigation in other matters, such as cross-examination of witnesses.

1201 Market Street Suite 800 Wilmington, DE 19801
www.BlankRome.com

062038.00616/40179798v.1

Delaware ■ Florida ■ New Jersey • New York • Ohio • Pennsylvania • Washington, DC • Hong Kong

Intel objects to AMD's Request, asserting that it is precluded by the Commission from disclosing the Statement of Objections or from making any use of it in the pending captioned case. Intel's objection is attached hereto as Exhibit B. Subsequent to a hearing on the AMD Request, Intel moved for issuance of a Protective Order, requiring AMD to return and refrain from using the Statement of Objections. Intel's Motion for a Protective Order is attached hereto as Exhibit C.

I am requesting that the Commission inform this Court of its position on the following issues:

- First, the Commission's position on the discovery in litigation pending in the United States of pre-existing documents submitted by third-parties in response to the Commission's information requests.
- Second, the Commission's position on the discovery in litigation pending in the United States of statements and submissions specifically prepared for the Commission, outside of the context of the Leniency Program, when, as in this case, there is a protective order (attached hereto as Exhibit D) that would protect such statements and submissions from being seen by third parties. In particular, are there any provisions in European Commission law that prevent a party that has prepared a response to the Commissions from producing it in litigation pending in the United States?
- Third, the Commission's position on the discovery of the unredacted version of the Statement of Objections from a party in litigation pending in the United States, when, as in this case, there is a Protective Order that would protect the unredacted version of the Statement of Objections from being seen by third-parties. In particular, are there any provisions under European Commission law that prohibit the production in litigation pending in the United States of the unredacted version of the Statement of Objections?
- Fourth, Intel's rights to use or publish the unredacted version of the Statement of Objections outside the context of the Commission proceeding, or alternatively, the terms under which Intel can waive any confidentiality and usage restrictions regarding the unredacted version of the Statement of Objections outside the context of the Commission proceedings.
- Fifth, the Commission's position on AMD's use of the unredacted version of the Statement of Objections produced by Intel in the United States litigation to gather documents for the Letters Rogatory request or for other purposes, such as cross-examination, and any actions the Commission may take against AMD for its use of the unredacted version of the Statement of Objections produced by Intel in the United States litigation outside of the Commission's proceedings.

I sincerely appreciate any expedited assistance you may be able to provide with respect to these issues. Please be advised that the discovery cut-off in the U.S. litigation is June 12, 2009.

Mr. Per Hellstrom
March 30, 2009
Page 3



If this request for assistance should be directed to another office of the Commission, would you please be so kind as to forward it to the appropriate authority.

Please do not hesitate to direct correspondence to my attention with any questions you may have. As with this communication to you, all communications between the European Commission will be shared with the parties and docketed with appropriate redactions.

Yours respectfully,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a long horizontal stroke that tapers to the right.

Vincent J. Poppiti
Special Master

VJP/mcm
Enclosure