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May 7, 2009

**VIA E-MAIL AND HAND DELIVERY**

The Honorable Vincent J. Poppiti  
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**REDACTED PUBLIC VERSION  
FILED MAY 13, 2009**

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

Dear Judge Poppiti:

AMD submits this letter in response to Intel's letter to Your Honor of May 4, 2009 (D.I. 1417 in C.A. No. 05-441-JJF; D.I. 1760 in C.A. No. 05-1717-JJF). By its own admission, Intel knew that the document in question had been inadvertently produced and that AMD would claim privilege over it and claw it back. Under the clear terms of the Second Amended Stipulation Regarding Electronic Discovery and Format of Document Production (the "Native Stipulation") (D.I. 288 in C.A. No. 05-441-JJF; D.I. 396 in C.A. No. 05-1717-JJF), once Intel was aware of a potential claim of privilege, Intel was required to notify AMD and cease any review of the document.

Intel was fully cognizant of these requirements, as the parties have repeatedly adhered to this protocol for the past two years. In derogation of them, however, Intel chose instead to continue to review the document, use the document's content as the basis for a submission to the Court, and even go so far as to submit the document to Your Honor for purported "safekeeping." Intel neither contacted AMD nor asked to meet-and-confer -- as clearly required by the Native Stipulation -- until *after* Intel transmitted the privileged document to Your Honor.<sup>1</sup>

Intel circumvented the Native Stipulation for the obvious purpose of exposing the Court to privileged material inadvertently produced by AMD. Intel's intent is further evidenced by the fact that Intel has not requested any action by Your Honor.

Intel's violation of the Native Stipulation is not excused by the fact that it will apparently

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<sup>1</sup> In its April 21, 2009 letter, Intel represented that it "has advised AMD of its intention to submit this letter." Intel, however, did not provide any such notice to AMD until more than two hours *after* filing its letter.

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dispute AMD's privilege claim,

. It suffices simply to point out that Intel's compliance with the Native Stipulation was not conditional upon its agreement with AMD's likely privilege claim -- it was clear and *un*conditional. If Intel wishes to challenge AMD's assertion of privilege as to the document in question, it will have ample opportunity to do so in the manner and according to the procedures set forth in the Native Stipulation.

AMD reiterates its request that Your Honor disregard Intel's April 21, 2009 submission and order the document at issue expunged from the record.

Respectfully,

*/s/ Frederick L. Cottrell, III*

Frederick L. Cottrell, III (#2555)

FLC,III/afg

cc: Clerk of the Court  
Richard L. Horwitz, Esquire  
James L. Holzman, Esquire