

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

IN RE INTEL CORPORATION)	MDL No. 05-1717-JJF
MICROPROCESSOR ANTITRUST)	
LITIGATION)	
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ADVANCED MICRO DEVICES, INC. and)	C.A. No. 05-441-JJF
AMD INTERNATIONAL SALES &)	
SERVICE, LTD.,)	
)	
Plaintiffs,)	Public Version
)	5/22/09
vs.)	
)	
INTEL CORPORATION and INTEL)	
KABUSHIKI KAISHA,)	
)	
Defendants.)	
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PHIL PAUL, on behalf of himself and all others)	C.A. No. 05-485-JJF
similarly situated,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
INTEL CORPORATION,)	
)	
Defendant.)	

**SUPPLEMENTAL SUBMISSION IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS, OR IN THE ALTERNATIVE,
FOR SUMMARY JUDGMENT ON AMD'S EXPORT COMMERCE CLAIM**

Intel wishes to bring to the Court's attention new testimony by AMD founder Jerry Sanders that bears on Intel's Motion to Dismiss, or in the Alternative, for Summary Judgment on AMD's Export Commerce Claim (MDL No. 05-1717, D.I. 1324). Mr. Sanders was AMD's Chairman and CEO when AMD decided to cease manufacturing microprocessors in the United

States at its Fab 25 in Texas. This testimony was not available when the parties completed their briefing on the motion.

Intel's Opening Brief ("Op. Br.") pointed out that AMD's most senior executives, including Mr. Sanders, believed at the time of AMD's decision to convert Fab 25 that AMD's Fab 30 in Dresden, Germany, would have sufficient manufacturing capacity to enable the company to achieve substantial growth in its microprocessor sales and market share. (Op. Br. 9-11.) In support, Intel cited public statements by Mr. Sanders, AMD President (and later Chairman and CEO) Hector Ruiz, and Chief Financial Officer Robert Rivet, who told investors that AMD had the capacity to make 50 million microprocessors at its German fab and a further statement by Dr. Ruiz that AMD had the ability to make 75 million microprocessors at that facility. (*Id.* 9-10.) In 2000, when AMD decided to convert its Texas fab, AMD sold 26.5 million microprocessors. (*Id.* 11.) AMD thus believed that it could support nearly twice its sales levels (or nearly three times that amount based on Dr. Ruiz's subsequent 75-million-unit estimate (*id.* 10)) without making a single microprocessor in the United States.

In its Opposition to Intel's Motion ("Opp."), AMD claimed that Intel misrepresented the categorical statements of its executives. AMD claimed that Intel "fail[ed] to disclose" operative assumptions that undermined the capacity estimates made by its executives (Opp. 8) and accused Intel of "misrepresent[ing]" Dr. Ruiz's statement that "Fab 30 is expected to exceed 50 million units in processor production per year in 2003" (Opp. 10), even though this was a true and correct quotation of what Dr. Ruiz said.

Mr. Sanders's testimony makes clear that [REDACTED]

[REDACTED] When asked at his deposition about his own statement that AMD could make 50 million microprocessors at its German fab, Mr. Sanders responded that

[REDACTED] (Deposition of Jerry Sanders (Vol. I) 112:10.)¹ When further asked whether he, Dr. Ruiz, or Mr. Rivet would have “publicly said that you believe AMD was capable of making 50 million units a year at fab 30 if you did not believe it,” Mr. Sanders responded [REDACTED]

[REDACTED] (*Id.* 117:12-18.)

Mr. Sanders’s testimony leaves no room for doubt that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Intel respectfully requests the Court to consider this additional evidence in rendering its decision on Intel’s Motion.

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¹ A true and correct copy of the relevant pages from the Sanders Deposition transcript is attached as Exhibit A.

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EXHIBIT A

REDACTED IN ITS ENTIRETY

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CERTIFICATE OF SERVICE

I, W. Harding Drane, Jr. hereby certify that on May 22, 2009, the attached document was hand delivered to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and the document is available for viewing and downloading from CM/ECF:

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