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VIA ELECTRONIC FILING AND HAND DELIVERY

The Honorable Vincent J. Poppiti
Special Master
Fox Rothschild LLP
Citizens Bank Center
919 North Market Street, Suite 1300
Wilmington, DE 19899-2323

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 -- AMD's Motion for Sanctions

Dear Judge Poppiti:

As requested by Your Honor during the August 24, 2009 hearing, AMD and Intel met and conferred earlier this week regarding page limits and a briefing schedule for AMD's motion for sanctions.

Although AMD made a concrete, completely reasonable proposal concerning page limits and briefing schedule, Intel refused to discuss either topic; instead, Intel asserted that it would be improper for AMD to file its sanctions motion before conducting its Court-ordered Rule 30(b)(6) deposition of Intel.

Of course, during the August 24, 2009 hearing, AMD could not have been more clear that it intended to file its sanctions motion while proceeding *simultaneously* with the Court-ordered Rule 30(b)(6) deposition of Intel: "We have had our . . . 30(b)(6) notice that we filed in -- back in April and that's now been ruled upon and we do intend to proceed with that discovery. But we intend to file our motion when it's ready and we will let the discovery occur in parallel." (August 24, 2009 Hearing Transcript at 9:13-9:18.)

Intel did not object at the time. In a transparent attempt at delay, Intel now asserts that AMD may not file its motion until after the conclusion of the Rule 30(b)(6) deposition, and that Intel will not be able to provide the last of its Rule 30(b)(6) witnesses until October 7, 2009, more than another month from now.

Intel's stated rationale for seeking the delay of AMD's motion is that *if* AMD uncovers relevant information during that Rule 30(b)(6) deposition and *if* AMD then uses that information in connection with its motion, Intel would need an opportunity to respond to that additional information. AMD does not disagree. Although we expect that AMD's sanctions motion will stand on its own *regardless* of what is learned during the Rule 30(b)(6) deposition, *if* AMD discovers additional information material to its motion *and* determines that it needs to supplement its briefing accordingly, Intel should and will be given an opportunity to respond. AMD has never suggested otherwise. But Intel is not to be rewarded for its continuing stubborn refusal to promptly comply with discovery that AMD served in April 2009.

While there is a possibility that information may be gleaned from the Rule 30(b)(6) deposition that *could* potentially be a basis for supplementation of AMD's sanctions motion, that is purely speculative at this point, and not at all the principal focus of the deposition in the first place. Rather, most of the topics in AMD's Rule 30(b)(6) deposition relate to issues *raised by Intel* regarding purported technical shortcomings of *AMD's* document preservation and harvesting, and are aimed at establishing that Intel's assorted technical complaints about AMD's email dumpster settings and the like are insubstantial and contradicted by Intel's own practices. Put simply, AMD is seeking primarily to understand in this deposition whether Intel is speaking out of both sides of its mouth when its technical consultants hurl their lists of alleged infractions at AMD. If as a byproduct of taking that deposition it turns out that material, new information germane to AMD's sanctions motion is elicited, then AMD would seek leave to supplement its sanctions motion and, if necessary, Intel can supplement its response. But AMD considers that scenario unlikely.

Intel alternatively insists that AMD's filing of its sanctions motion now should result in a forfeiture of AMD's right to conduct its Court-ordered Rule 30(b)(6) deposition of Intel. Intel's position is unauthorized; Intel has no right to impose such conditions on AMD's right to file its motion, much less to disobey the Special Master's ruling. The fact of the matter is that Intel is attempting to evade its discovery obligations while at the same time delay the filing of AMD's sanctions motion by any means available. There is no justification for that. Instead, it is time the Court learns the full breadth of Intel's monumental preservation failures and be given the opportunity to consider and rule on sanctions. It is AMD's belief that Your Honor and the Court would likely wish to review and resolve this important matter quickly, but thoroughly, given the impending deadlines on other matters in this case such as expert discovery, pretrial preparation and trial. While six months to trial in an ordinary case may be sufficient time for the Special Master and the Court to consider any issues arising from these deadlines, given the scope of the anticipated sanctions motion and the complexity of trial preparation, an aggressive schedule on sanctions should be put in place.

As we have informed Intel, AMD's sanctions motion is nearing completion, will be on the order of 50 double-spaced pages in length, and that we intend to file it as soon as it is ready, likely during the coming week. AMD has offered Intel any reasonable extension of time within which to file its opposition or, alternatively, the opportunity to review AMD's papers first before finalizing a briefing schedule. The Court can then schedule a hearing on the motion as it sees fit.

Intel's own motion, should it decide to file one, should be submitted on whatever timetable Intel prefers, with similar page limits and accommodative briefing schedule.

Respectfully,

/s/ Frederick L. Cottrell, III

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cc: Clerk of the Court (By Electronic Filing)
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