

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ADVANCED MICRO DEVICES,)
)
 Plaintiffs,) Civil Action No.
) 05-441-JJF
 v.)
)
 INTEL CORPORATION,)
)
 Defendant.)

Teleconference in above matter taken pursuant to notice before Renee A. Meyers, Registered Professional Reporter and Notary Public, in the offices of Blank Rome, LLP, 1201 North Market Street, Wilmington, Delaware, on Monday, February 11, 2008, beginning at approximately 10:00 a.m., there being present:

BEFORE:

THE HONORABLE VINCENT J. POPPITI, SPECIAL MASTER

APPEARANCES:

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APPEARANCES (Continued):

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1 SPECIAL MASTER POPPITI: If you don't
2 mind, please, let's go back and do a roll call so that
3 our court reporter has everyone, please.

4 MR. COOPER: This is Dan Small with
5 Cohen, Milstein for the plaintiffs.

6 SPECIAL MASTER POPPITI: Thank you.

7 MR. ATHEY: Your Honor, this is Clay
8 Athey from Prickett, Jones also for Class plaintiffs.

9 SPECIAL MASTER POPPITI: Thank you.

10 MR. VOLEN: Rich Volen from Finkelstein,
11 Thompson for the plaintiffs.

12 SPECIAL MASTER POPPITI: Thank you.

13 MR. HORWITZ: Rich Horwitz for Intel.

14 MR. RIPLEY: Richard Ripley for Intel.

15 MR. COTTRELL: Your Honor, in
16 Wilmington, Fred Cottrell for AMD, and I believe Jennifer
17 Laser from O'Melveny may be on for AMD as well.

18 MS. LASER: That is correct. Good
19 morning.

20 SPECIAL MASTER POPPITI: Good morning.
21 Thank you.

22 MR. PARRETT: Good morning, Your Honor.
23 It's James Parrett from Morris, Nichols, and on the line
24 is Robert Stone for Frys.

1 SPECIAL MASTER POPPITI: Thank you very
2 much. And I appreciate all of you joining today,
3 particularly, and I do hope we did this, when we set it
4 on this end, we took into account anyone that was going
5 to be calling in from the West Coast because I know it's
6 awful early out there.

7 What I wanted to do is, given my
8 responsibility of trying to keep discovery moving
9 forward, is determine the status of production after
10 Judge Farnan entered his order January 25, 2008.

11 I am mindful of the fact that Frys may
12 choose to question that determination in perhaps several
13 ways. If that is the case, then, of course, I don't want
14 to intrude on any judgments that are presently being --
15 any decisions that are presently being considered unless
16 you all have, once again, entered into conversation about
17 getting the production moving.

18 So, with that, it may be important for
19 me to hear from Frys, please.

20 MR. STONE: Your Honor, Robert Stone for
21 Frys. My colleague, Mike Powell, had a conversation last
22 week with counsel for Class and discussed the fact that
23 we are aware of our obligations under the order requiring
24 that the production be completed within 35 days of the

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1 Court's entry of the order.

2 I can also tell you, without going into
3 details, that we are obviously in discussions with our
4 client about compliance with the Court's order. We
5 haven't had any specific discussions with Class regarding
6 the nature of compliance, but those are all efforts that,
7 no doubt, will continue to move forward over the course
8 of the next week or so.

9 SPECIAL MASTER POPPITI: Okay.

10 MR. STONE: Other than that, I can't
11 give you anymore final details as to what Frys will be
12 doing at this time.

13 SPECIAL MASTER POPPITI: Does Class have
14 any comments in light of that report?

15 MR. SMALL: Just briefly, Your Honor.
16 This is Dan Small for the Class.

17 We did reach out to Frys last week to
18 see if there were any issues we could profitably talk
19 about in advance of this call, and as Mr. Stone just
20 reported to you, they, basically, took the position they
21 were aware of their obligations under the order and did
22 not see any issues that we should talk about at this
23 time.

24 Maybe it is premature, you know, in

1 particular, because I guess Frys has the potential for
2 appealing the order that requires their production.

3 I did look back at Your Honor's report
4 and recommendation which was adopted by the Court to see
5 whether there were any issues that I thought might be a
6 problem for production, and I think there are two
7 potential problems. One is the order requires that Frys
8 data be produced in a, quote, reasonable format and
9 manner, and we have not had any discussions with Frys
10 about what format they would produce the data in. I
11 believe it would be helpful to have that kind of
12 discussion with Frys well in advance of due date for
13 production.

14 The other portion of Your Honor's report
15 and recommendation that might create an issue is the part
16 that requires production of, quote, incentive payments
17 that Frys received from its computer vendors and from
18 Intel. And there may be some disagreement, we don't
19 know, between us and Frys as to exactly what's included
20 within the term "incentive payments." So that would be
21 another area where I think it would be helpful to have a
22 full discussion with Frys well before the due date for
23 production.

24 SPECIAL MASTER POPPITI: Well, that

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1 having been said, and knowing my goal is to keep the
2 production on track, at the same time, I don't want to be
3 setting dates for status unless I have some clear
4 understanding that, in fact, you are moving forward to a
5 production date, and maybe the best thing to do would be
6 to either ask you that directly at this point, and if you
7 are not in a position to answer that question, then it
8 seems to me it may be important for me to re-status this
9 once any time, the time has past where you are able to
10 take some action to question Judge Farnan's
11 determination.

12 Any thoughts on that, please?

13 MR. STONE: Your Honor, Robert Stone for
14 Frys. I suggest you re-status the matter.

15 SPECIAL MASTER POPPITI: Okay. Would
16 someone like to propose the date when that should be done
17 so that we have something on the calendar to look for?

18 MR. SMALL: Your Honor, by my
19 calculation, the final date by which Frys could appeal
20 from the Court's order would be, I believe, February
21 25th, so it may make sense to have a status after that
22 date so we know whether there is going to be an appeal.

23 SPECIAL MASTER POPPITI: Does Frys have
24 a position on the date, then? The date that is being

1 proposed is any date soon after the 25th, which is a
2 Monday.

3 MR. STONE: That would be fine for Frys,
4 Your Honor, provided that it's not the 29th.

5 SPECIAL MASTER POPPITI: Let me just
6 look. That Thursday is not a usually scheduled Intel
7 day. I do have time on the 26th, which is the day after,
8 and if someone would propose a time consistent with your
9 schedules after, any time after 2:00.

10 MR. SMALL: This is Dan Small for the
11 Class. Any time after 2:00 works fine for my schedule.

12 MR. STONE: Your Honor, Robert Stone for
13 Frys. Any time after 2:00 Eastern works fine for my
14 schedule as well.

15 SPECIAL MASTER POPPITI: Others that are
16 going to be joining in?

17 MR. RIPLEY: Rich Ripley from Intel. I
18 am clear that afternoon, Your Honor.

19 MR. HORWITZ: This is Rich Horwitz. I
20 am clear until about 4:30 and then I have to go over to
21 Federal Court.

22 SPECIAL MASTER POPPITI: Okay.

23 MR. PARRETT: This is James Parrett,
24 Your Honor. I am clear that afternoon as well.

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1 SPECIAL MASTER POPPITI: Okay. Then why
2 don't we just land on the 2:00 time, 2:00 p.m. for
3 further status.

4 Any other comments or questions, please?

5 MR. SMALL: Not for the Class, Your
6 Honor.

7 MR. STONE: Your Honor, Robert Stone for
8 Frys. I just want to recognize my appreciation of
9 Mr. Small making himself available for further
10 discussions should the need arise, and certainly if I
11 deem that the need arises, I won't hesitate to call him
12 to see if we can move the forward ball forward.

13 SPECIAL MASTER POPPITI: That's great.
14 I would hope that between now and status, expecting that
15 there may be a need in light of a couple things that
16 Mr. Small has said, that you take that time beforehand so
17 that the status can be a productive conversation as well.

18 MR. SMALL: And I appreciate Mr. Stone's
19 comments and I am sure we will have a good conversation
20 between the next status conference.

21 SPECIAL MASTER POPPITI: Great. Thank
22 you all. I look forward to interesting news from D.C. on
23 D.C. Tuesday. Everyone have a good day.

24 (The teleconference was concluded at

1 10:16 a.m.)

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C E R T I F I C A T E

STATE OF DELAWARE:
:
NEW CASTLE COUNTY:

I, Renee A. Meyers, a Registered Professional Reporter, within and for the County and State aforesaid, do hereby certify that the foregoing teleconference was taken before me, pursuant to notice, at the time and place indicated; that the teleconference was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the foregoing teleconference is a true record; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.

WITNESS my hand this 11th day of February A.D.
2008.

Renee A. Meyers

RENEE A. MEYERS
REGISTERED PROFESSIONAL REPORTER
CERTIFICATION NO. 106-RPR
(Expires January 31, 2011)

