

MICROPROCESSOR ANTITRUST LITIGATION

DOCUMENT PRODUCTION AGREEMENT BETWEEN DELL AND REQUESTING PARTIES

I. Background

- A. This Agreement, effective January 1, 2007, is between Dell, Inc. (“Dell”); Advanced Micro Devices, Inc. and AMD International Sales & Services, Ltd. (collectively “AMD”); Intel Corporation and Intel Kabushiki Kaisha (collectively “Intel”); and the parties in the MDL Action (claimants therein referred to as the “MDL Plaintiffs”) and the California Action (claimants therein referred to as the “California Plaintiffs”).
- B. This Agreement governs all subpoenas served on Dell in the following matters:
1. *Advanced Micro Devices, Inc. and AMD International Sales & Services, Ltd. v. Intel Corporation and Intel Kabushiki Kaisha*, No. 05-441-JJF, United States District Court, District of Delaware (“AMD Action”).
 2. *In re Intel Corp. Microprocessor Antitrust Litigation*, MDL Docket No. 1717-JJF and *Phil Paul, et al. v. Intel Corp.*, Case No. 05-485-JJF, United States District Court, District of Delaware (“MDL Action”).
 3. *In re Intel x86 Microprocessor Cases, Judicial Council Coordination Proceeding No. 4443*, Superior Court of California, County of Santa Clara (“California Action”).
- C. The subpoenas served on Dell may be referred to herein as the “Subpoenas.”
- D. AMD, Intel, the MDL Plaintiffs, and the California Plaintiffs may be referred to herein as the “Requesting Party” or “Requesting Parties.”

II. Subpoenas to Dell

- A. Following the lawsuit filed by AMD against Intel, Dell and AMD entered into a September 2, 2005 stipulation for document preservation (“Preservation Stipulation”) and an April 25, 2006 supplemental stipulation for document preservation (“Supplemental Preservation Stipulation”) (Exhibits A and B).
- B. On October 4, 2005, AMD served Dell with a document production subpoena (“AMD Subpoena”) (Exhibit C).
- C. On June 21, 2006, Intel served Dell with a document production subpoena (“Intel Subpoena”) (Exhibit D).

- D. On June 22, 2006, plaintiffs in the MDL Action (“the MDL Plaintiffs”) served Dell with a document production subpoena (“MDL Subpoena”) (Exhibit E).
- E. On June 22, 2006, plaintiffs in the California Action (“the California Plaintiffs”) served Dell with a document production subpoena (“California Subpoena”) (Exhibit F).
- F. In place of specific document requests, definitions, instructions, and other terms of the Subpoenas, the parties have agreed to use a custodian-based, search-term approach to electronically search Dell’s data files, and the parties have agreed to use the data processing, review, and production protocols described in this Agreement to produce information relevant to the claims and defenses in the litigation.

In addition, Dell has agreed to produce certain transactional data relating to its purchase of microprocessors, its sale of computers, and the payments, rebates, subsidies, and marketing support provided by Intel. The parameters of this production will be reflected in a separate agreement.

- G. This Agreement supersedes the Subpoenas, the Preservation Stipulation, and the Supplemental Preservation Stipulation.

III. Procedures and Protocols

A. Media, data, metadata

- 1. Dell will collect, process, and review for possible production the following:
 - a. Active data files from the hard drives of the 28 “Custodians” defined by, and imaged pursuant to, the Preservation Stipulation.
 - b. Email on the current work hard drive of Gretchen Miller.

This data will be collected at Dell’s option either by using Encase Enterprise Edition (and collect only files that meet the date, file type, and First Search Term Set parameters set forth in this Agreement) or by re-imaging the hard drives.

- c. Exchange server email for Michael Dell and Kevin Rollins through January 1, 2007 (“the Dell/Rollins Second Harvest”).

After the Dell/Rollins Second Harvest, there shall be no ongoing preservation obligations as to Mr. Dell or Mr. Rollins under the Preservation Stipulation, the Supplemental Preservation Stipulation, or otherwise.

- d. Email on the current work hard drives of Dan Allen, Jeff Clarke, Glenn Neland, and Jerele Neeld through January 1, 2007 (“the Allen Second Harvest”).

This data will be collected at Dell’s option either by using Encase Enterprise Edition (and collect only files that meet the date, file type, and First Search Term Set parameters set forth in this Agreement) or by re-imaging the hard drives.

After the Allen Second Harvest, there shall be no ongoing preservation obligations as to Mr. Allen, Mr. Clarke, Mr. Neland, or Mr. Neeld under the Preservation Stipulation, the Supplemental Preservation Stipulation, or otherwise.

- e. The media and data described in Paragraphs III(A)(1)(a) – (d) above will be referred to as “Custodian Data.”
- f. Dell represents that, to the best of its knowledge, (1) the above-listed media are likely to contain most of the relevant, non-duplicative data stored on media preserved pursuant to the Preservation Stipulation for the Custodians, and (2) Dell does not believe that there are significant amounts of relevant, non-duplicative data stored on other such media. The Requesting Parties acknowledge that non-duplicative, relevant information may reside in other media that is not being processed, reviewed, or produced.

- 2. Subject to disclosure to and feedback or objection from the European Commission (“EC”), Dell will produce a copy of the documents provided to or seized by the EC in its investigation of Intel, except the following documents related to the investigation will not be produced:

- a. Correspondence to or from the EC;
- b. Materials prepared for or at the request of the EC;
- c. Attorney-client communications or materials covered by work product privilege, even if seized by or produced to the EC;
- d. Questions or requests for information from the EC or responses to the EC’s questions or requests for information;
- e. Information protected from disclosure by EU or other applicable privacy laws or regulations; and
- f. Materials provided to or seized by the EC after the effective date of this Agreement.

- g. The materials described in Paragraphs III(A)(2)(a) – (f) above will be referred to as the “EC Production.”

The Requesting Parties agree that the possession of materials by the EC, obtained by seizure or other means, does not constitute a waiver by Dell of any privilege or other exemption against production.

- 3. Only active, user-created, and non-deleted files will be processed and reviewed for possible production. Fragmented, shadowed, deleted, and similar non-active data will not be processed, reviewed, or produced. System files, program files, executable files, empty files, templates, and other files that come with system or application files will not be processed, reviewed, or produced.
- 4. Backup tapes, shared drives, home computers, and other media will not be processed, reviewed, or produced, unless a Requesting Party can establish a reasonable likelihood (a) that responsive data exists on such media that is non-duplicative of data available from any other source and (b) that such data bears a significant impact on the claims or defenses in the litigation.

The Requesting Parties shall have 90 days after Dell’s production of the First Inspection Set and the EC Production to establish that such media should be processed, reviewed, or produced. If no such showing is made, Dell shall have no further obligation to preserve backup tapes, shared drives, home computers, or other media under the Preservation Stipulation, Supplemental Preservation Stipulation, or otherwise.

The Requesting Parties shall bear all costs associated with the processing, review, and production of data from such backup tapes, shared drives, home computers, or other media.

- 5. Except to the extent the EC Production may consist of paper (or imaged static documents), Dell will not gather, review, or produce paper documents.
- 6. The parties will prepare a joint stipulation to file with the appropriate courts to reflect the agreements herein that modify or supersede the Preservation Stipulation and the Supplemental Preservation Stipulation.

B. Pre-culling

The data will be pre-culled by file type, de-duplication, and date.

1. File types

- a. The following file types will be processed and reviewed for possible production: (1) doc, (2) mpp, (3) msg, (4) oft, (5) ost, (6)

pdf, (7) pps, (8) ppt, (9) pst, (10) pub, (11) rtf, (12) tif, (13) txt, (14) vsd, (15) wbk, (16) wk1, (17) wks, (18) wpd, (19) xls, (20) xlw, and (21) zip.

b. Other file types will not be processed, reviewed, or produced.

2. De-duplication

a. De-duplication for e-mail and electronic documents will be done by custodian so that only one instance of a file has to be reviewed/produced for each custodian.

b. Near-duplicates will be culled out and not subject to review or production.

3. Dates

a. Data files before January 1, 2002 will be culled out, except as to Michael Dell, Kevin Rollins, and Kevin Kettler, whose files from January 1, 2001 forward shall be processed and reviewed for possible production.

C. Search terms, review, and production

Because Dell and the Requesting Parties have agreed to use search terms run against the Custodian Data in place of the specific document requests, definitions, and instructions in the Subpoenas, non-privileged data files that have search term “hits” shall be presumptively produced, but Dell is not required to produce files that are clearly not relevant to the litigation.

1. First Production Set

a. The Requesting Parties have developed a mutually agreed-upon list of search terms (“First Search Term Set”) (Exhibit G), which is numbered and written/defined in dtSearch Boolean syntax to be run verbatim. Dell will run the First Search Term Set against the Custodian Data. If any of the search terms result in an inordinate number of hits, the parties will work together to narrow the search terms.

b. Dell will review all files with search term hits for relevance to the claims and defenses in this litigation. Files without search term hits will not be reviewed or produced. Non-privileged documents with hits shall be presumptively produced, but Dell may withhold documents that are clearly not relevant to the litigation. Non-privileged, responsive documents shall be produced to AMD and Intel in native format as further detailed in the Dell Stipulation Regarding Electronic Discovery and Format of Document

Production (the “Dell Native Production Stipulation”) (Exhibit H), which is incorporated into this Agreement by reference. These documents shall constitute the “First Inspection Set.” If a non-privileged file contains a search term hit and is going to be part of the First Inspection Set, that entire file, including attachments, shall be presumptively part of the First Inspection Set, but Dell is not required to include in the First Inspection Set attachments that are clearly not relevant to the litigation.

- c. AMD and Intel shall review the First Inspection Set on their vendors’ systems consistent with the provisions of the Dell Native Production Stipulation (Exhibit H).
- d. No later than 60 days after receiving the First Inspection Set, AMD and Intel shall designate files for production. Using the reference file identifier supplied by Dell, AMD and Intel shall provide Dell a consolidated list of documents for production. The Requesting Parties will convert the designated native files to tiff format and Bates-number and brand the files as “Confidential” pursuant to the Protective Order entered in the AMD Action. The Requesting Parties will create a load file based on agreed-upon specifications to accompany the tiff images. The tiff images and load file shall constitute the First Production Set. The Requesting Parties shall jointly bear the costs of creating the First Production Set.

2. Second Production Set

- a. No later than 60 days after receiving the First Inspection Set, AMD and Intel may create another mutually agreed-upon list of search terms, which shall be numbered and written/defined in dtSearch Boolean syntax to be run verbatim (“Second Search Term Set”). Dell will run the Second Search Term Set against Custodian Data. If any of the search terms result in an inordinate number of hits, the parties will work together to narrow the search.
- b. Dell will review the non-duplicative files that contain hits from the Second Search Term Set for relevance to the claims and defenses in this litigation. Files without search term hits will not be reviewed or produced. Non-privileged documents with hits shall be presumptively produced, but Dell may withhold documents that are clearly not relevant to the litigation. Non-privileged, responsive documents shall be produced to AMD and Intel in native format as further detailed in the Dell Native Production Stipulation (Exhibit H). These documents shall constitute the “Second Inspection Set.” If a non-privileged file contains a search term hit and is going to be part of the Second Inspection Set, that entire file, including attachments, shall be part of the Second

Inspection Set, but Dell is not required to include in the Second Inspection Set attachments that are clearly not relevant to the litigation.

- c. AMD and Intel shall review the Second Inspection Set on their vendors' systems consistent with the provisions of the Dell Native Production Stipulation (Exhibit H).
- d. No later than 60 days after receiving the Second Inspection Set, AMD and Intel shall designate files for production. Using the reference file identifier supplied by Dell, AMD and Intel shall provide Dell a consolidated list of documents for production. The Requesting Parties will convert the designated native files to tiff format and Bates-number and brand the files as "Confidential" pursuant to the Protective Order entered in the AMD Action. The Requesting Parties will create a load file based on agreed upon specifications to accompany the tiff images. The tiff images and load file shall constitute the Second Production Set. The Requesting Parties shall jointly bear the costs of creating the Second Production Set.

3. No further production

- a. After completing the First and Second Production Sets and the EC Production, Dell will have no further obligation to run additional search terms, to search for or produce other information, or to preserve any data, documents, or other information for possible production.
- b. No later than 30 days after Dell has notified the Requesting Parties that it has completed the First and Second Production Sets and the EC Production, all other Dell data and information, including the First and Second Inspection Sets, shall be returned to Dell and permanently deleted from all systems and media used to process, review, produce, store, or backup the data, except as may otherwise be agreed between the parties hereto. The Requesting Parties and their vendors shall certify deletion of this data.

D. Privilege log

- 1. The Requesting Parties may seek a privilege log as to no more than two mutually-agreed, three-month periods of the relevant time for production. If the Requesting Parties cannot agree, AMD and Intel may each select one three-month period. Dell is not obligated to provide any other privilege logs. If a privilege log is requested, it must be requested no later than March 1, 2007.

IV. Transactional Data

Notwithstanding any of the provisions detailed above, Dell will preserve its copies of the microprocessor procurement databases described in the Preservation Stipulation for production of transactional data.

The Requesting Parties will prepare a consolidated list of transactional data they seek. The parties will then negotiate the scope and protocols for production of that data.

V. Cost

AMD, the MDL Plaintiffs, and Intel agree to compensate Dell in the amount of \$890,000 for Dell's costs of collecting, processing, hosting, and producing data and documents under this Agreement and in response to the Subpoenas. AMD, the MDL Plaintiffs, and Intel shall each pay Dell \$296,667 within 15 days of Dell's production of the First Inspection Set. If Dell produces the Phase One Inspection Set on a rolling basis, this payment shall be made within 15 days of when Dell gives AMD, the MDL Plaintiffs, and Intel notice that production of the First Inspection Set is substantially complete.

As outlined above in Section III(C)(1)(d) and Section III(C)(2)(d), AMD, the MDL Plaintiffs, and Intel agree to pay the costs of creating and producing the First and Second Production Sets and for Dell to obtain a copy of the First and Second Production Sets in a format agreeable to Dell.

The payments in this Paragraph V shall constitute the only and final reimbursement by AMD, the MDL Plaintiffs, and Intel of costs incurred by Dell in complying with this Agreement or in responding to the Subpoenas. Dell will pay its own attorney review costs and any and all other additional costs incurred in collecting, processing, hosting, reviewing, or producing data or in otherwise complying with the terms of this Agreement or responding to the Subpoenas, with the exception of any costs incurred in the production of data pursuant to Paragraph III(A)(4) above.

VI. Production of Data to Other Requesting Parties

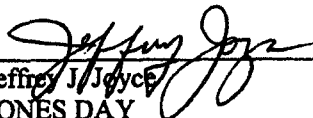
The Requesting Parties agree that Dell will not produce to any party other than AMD, the MDL Plaintiffs, and Intel the First and Second Inspection Sets, First and Second Production Sets, or the EC Production until the Requesting Parties have an opportunity to resolve any cost-sharing issues between or among themselves either through negotiations and agreement or through intervention of the Special Master.

VII. Alienware

The parties agree to negotiate a similar custodian-based, search-term production protocol for the subpoenas served on Alienware. Pending negotiation of that agreement, the Requesting Parties agree that Alienware may have an indefinite extension of time to object or otherwise respond to subpoenas to Alienware.


Dated: January 18, 2007

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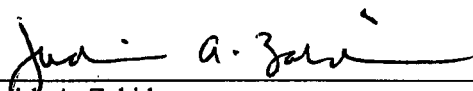
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MICROPROCESSOR ANTITRUST LITIGATION

EXHIBIT G TO DOCUMENT PRODUCTION AGREEMENT BETWEEN DELL AND REQUESTING PARTIES

FIRST SEARCH TERM SET

1. (meet* w/2 comp) or (meet* w/2 compet*)
2. mcp
3. mcap
4. ecap or "e-cap" or lcap or "l-cap" or "price exception"
5. moap or "mother of all programs"
6. iip or "intel inside"
7. mid w/2 comp
8. jumpstart
9. (amd or opteron) w/10 fund*
10. (bid or bridge) w/2 (fund* or bucket* or packet* or pot* or manag*)
11. except* w/2 fund
12. tracker
13. go w/2 fast*
14. "processor fund*" or (pric* w/3 fund*) or (Intel w/3 fund*) or (match* w/3 fund*)
15. D315
16. forward w/2 pric*
17. tactic*
18. (tell* or told or speak* or spoke* or commun* or inform* or meet* or met or confer* or call* or discuss* or share* or note or respon* or roadmap) w/5 (paul or ottelini or craig or barrett or andy or grove or art or intel)
19. fight* w/25 fund*
20. cassini

21. maid or bambino or robusto or “square hole”
22. maverick or renegade or nemo or lilo or stitch
23. project w/10 shanghai
24. amd* or (advanced w/2 (microdevices or devices))
25. opteron*
26. athlon* or A64* or duron or sempron or K-8
27. intel w/2 (approv* or guideline* or permi* or polic* or lever*)
28. amd or intel w/20 (share or position or percent*)
29. *processor* w/3 (strateg* or plan*)
30. etr or "executive technical review"
31. "processor landscape"
32. roadmap w/20 (intel or amd)
33. (amd or intel) w/20 (negotiat* or deal or strateg*)
34. intel w/10 (fud or threat* or withhold* or retaliat* or retribution* or fear* or afraid or *fair or harm* or hurt*)
35. intel w/10 (punish* or revenge or kill* or lever* or pressur* or compet* or obstruct* or kick* or aggress* or damag* or squeeze*)
36. (los* or loos* or *hold*) w/10 (fund* or mdf or rebate* or favor* or check)
37. “cliff discount*” or “first dollar” or “dollar one” or ber or “back end rebate” or predatory
38. (soft or sludge or discretion*) w/10 (money or dollars or *\$\$\$* or fund*)
39. (field* w/10 rate*) or ifr
40. intel w/10 (“below cost” or “below margin” or free or bundl*)
41. intel w/10 (incent* or rebate or discount or special or *\$\$\$* or dcp or “demand creation program”)
42. intel w/10 (“supply line agreement” or sla)
43. intel w/10 (relationship* or partner*)

44. intel w/10 (exclusi* or *only* or *house or *shop or quota or restrict* or “loyal*” or “preferred” or promis* or “no choice”)
45. intel w/10 (scheme* or strateg* or agreement* or loi or “letter of intent” or loi or mou or “memo of understanding” or “memorandum of understanding” or contract*
46. intel w/10 (jedec or ieee or tgc or adt or pci-sig)
47. intel and (capacity w/5 problem*)
48. intel w/10 (refus* or angry or unhappy* or weak* or concern* or nightmar* or terribl* or fiasco* or disaster* or catastroph* or calamity or debacle* or disappoint* or frustrat* or furious* or upset* or livid or enrage* or poor* or uncomfortable or fault* or mistak* or miscalculat* or mismanage* or bad or risk* or lose or loose or lost or *happy* or pain* or hardball or “dirty trick*”)
49. (intel or microprocessor*) w/10 (“executive summary” or “executive report” or “board presentation” or bod or minutes or directors or management* or committee* or “white paper” or “task force” or consultan*)
50. (hector or ruiz or dirk or meyer or marty or seyer or dave or fionda or jerry or vogel) w/3 (clarke or koval or everett or vanderslice or kevin or rollins or zucker or stephan)
51. competition w/10 (*fair or attack* or harm* or hurt* or destroy* or disadvantage* or kill* or outspend* or bury or beat* or “shut out” or “keep out” or “lock out” or “squeeze out” or “at all costs”)
52. (cloran or wright or fionda) and (deal or mobile or laptop or desktop or server or sempron* or duron* or turion* or dual-core*)
53. (win or won or lose or lost or risk or bid) w/5 (pixar* or amazon* or monster* or cgg or petrobas* or cybertrader or “american airlines” or aa or msn or eauction or belgacom or stockholm or “france telecom” or “bank of greece” or nec or statoil or volvo or fiat or supercomputer* or cluster*)
54. (bapco or sysmark* or ecost or e?cost) w/10 (*fair or *advantage* or *competiti* or complaint* or manipulate* or influence* or deceptive)
55. price/perf* or (price w/10 performance) and (amd or intel)
56. kadoka or (sweat w/10 tears)
57. point* w/10 indifference*
58. swot
59. jftc or “japan fair trade commission” or “european commission” or “eu” or “competition authorities”

60. intel w/10 (antitrust or anticompetitive or monopol* or litigation or sanction* or illegal or unfair)
61. (mccollam or savo or sant or lefree or kurtzer or kinoshita or hunter or harder or foote or el-dardiry or shah or timm or webb or lahr or larsen or kawamura or gleissner or fleck or fleig or aertebjerg) w/5 (*competi* or tell* or told or speak* or spoke* or commun* or inform* or meet* or met or confer* or call* or discuss* or share* or note or respon*)
62. ccp
63. mmbp
64. (5x5 or qbr or ebr) and (amd or intel)
65. otellini or grove or maloney or gelsinger
66. "guidance package"
67. (100* or pure or exclusive) and (amd or intel)
68. strat* buy
69. "tier 0 incentive"
70. "refuse to lose"
71. "orange book*" or "yellow book*" or "red book*"
72. "contingent upon" and (amd or intel)
73. "economic value" and (amd or intel)
74. spiff* and (amd or intel)
75. "bucket funds"
76. (free or "no charge") w/20 (amd or intel)
77. (D-350 or "commercial desktop") and (amd or intel)
78. "share the pain"
79. vendor w/ 10 "target income"
80. enhancement and (amd or intel)
81. allocation w/20 (amd or intel)
82. "hit the number*"

83. "sweetheart deal" and (amd or intel)
84. ("tier one" or "tier 1" or "tier zero" or "tier 0") and (amd or intel)
85. "mnc"
86. amd w/ 10 *suit or litigation
87. "Fat Tire" or Guinness or Sonic or Shiner or "Kirin Ichiban" or "Tsing Tao" or "Blair Bonnie" or Bristol or Humpback or Magnum or Bouillon or Vanguard or Octans