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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 Intel Corporation, a Delaware corporation, )

12 Plaintiff, )

13 vs. )

14 American Guarantee and Liability )  
15 Insurance Company, a New York )  
16 corporation, )

17 Defendant. )

Case No. C09-00299 PVT

**FIRST AMENDED COMPLAINT  
FOR DECLARATORY RELIEF,  
BREACH OF CONTRACT AND BAD  
FAITH**

**DEMAND FOR JURY TRIAL**

1 Plaintiff Intel Corporation (“Intel”) complains of Defendant American Guarantee  
2 and Liability Insurance Company (“AGLI”) and Does 1 through 10 (collectively  
3 “Defendants”), and each of them, and alleges:

4 **JURISDICTION AND VENUE**

5 1. Intel is a Delaware corporation with its principal place of business in Santa  
6 Clara, California. Intel is licensed to transact business, and is transacting business in the  
7 State of California. AGLI is a New York corporation with its principal place of  
8 business in Schaumburg, Illinois. This Court has jurisdiction over all claims for relief  
9 pursuant to 28 U.S.C. § 1332(a) in that it is a civil action between citizens of different  
10 states in which the matter in controversy exceeds, exclusive of costs and interest,  
11 seventy-five thousand dollars (\$75,000.00).

12 2. In addition, this Court has jurisdiction, pursuant to 28 U.S.C. § 2201, over  
13 the first and third claims for relief in which Intel seeks a declaration of the parties’  
14 rights and obligations under a contract of insurance.

15 3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(a)(1),  
16 28 U.S.C. § 1391 (a)(2), and 28 U.S.C. § 1391(c) because the Defendant is a  
17 corporation subject to personal jurisdiction in this district and a substantial part of the  
18 events or omissions giving rise to the claim originated in this judicial district. The  
19 subject insurance policy and the XL policy to which it follows form was negotiated and  
20 obtained through a San Francisco based insurance broker, Marsh; Intel participated in  
21 policy negotiations from its Santa Clara, California headquarters; Intel paid the  
22 premiums for the policy from its Santa Clara, California headquarters; Intel pursued its  
23 claim against AGLI from its Santa Clara, California headquarters; and Intel paid defense  
24 costs for the underlying litigation from its Santa Clara, California headquarters.

## INTRODUCTION AND NATURE OF DISPUTE

1  
2 4. Starting in June 2005, Intel has been a defendant in lawsuits brought by  
3 Advanced Micro Devices (“AMD”), a competitor of Intel, and consumers alleging, *inter*  
4 *alia*, that Intel has engaged in unfair business practices and anticompetitive conduct in  
5 its sale, promotion and marketing of its microprocessors. Similarly, a group of  
6 consumers filed lawsuits against Intel alleging that Intel’s actions have hurt consumers.  
7 *Paul v. Intel*. These consumer actions have been consolidated as Multi District  
8 Litigation with the *AMD v. Intel* lawsuit and are known as *In Re Intel Corporation*  
9 *Microprocessor Antitrust Litigation*, MDL No. 1717-JJF. Additionally, there is another  
10 set of lawsuits which allege claims similar to the *Paul v. Intel* lawsuit which are pending  
11 in the Superior Court of California for the County of Santa Clara and have been  
12 consolidated and entitled the *Intel X86 Microprocessor Cases* (JCCP 4443) (the  
13 “California AMD Action” and collectively, all three actions as “the AMD Litigation”).  
14 The claims alleged in the AMD Litigation are at least potentially covered by the  
15 “Advertising Liability” coverage grant of the Following Form Excess Liability Policy  
16 issued by AGLI.

17 5. Intel tendered the AMD Litigation to AGLI via California based insurance  
18 broker, Marsh, in accordance with the relevant policy requirements for coverage. In  
19 response, AGLI has failed and refused to provide a defense for Intel, ignored the clear  
20 potential for coverage of the AMD Litigation and repudiated its policy obligations by  
21 denying coverage.

22 6. Without AGLI’s assistance, Intel has been defending itself in the AMD  
23 Litigation despite the fact that it purchased coverage from AGLI to cover such costs.

24 7. Intel brings this complaint for declaratory relief, breach of contract and  
25 tortious breach of the covenant of good faith and fair dealing requesting the Court to  
26 declare and enforce Intel’s rights to defense and indemnity coverage for the AMD  
27 Litigation under the “Advertising Liability” provisions of the Following Form Excess  
28

1 Liability Policy issued by AGLI., and to assess punitive damages in an amount adequate  
2 to punish and to deter similar behavior by AGLI in the future.

3 **THE PARTIES**

4 8. Intel is and was at all relevant times, a Delaware corporation, with its  
5 principal place of business in Santa Clara, California. Intel is licensed to transact  
6 business, and is transacting business in the State of California.

7 9. Intel is informed and believes and on that basis alleges that AGLI is, and at  
8 all times material hereto was, an insurance company incorporated in the state of New  
9 York, with its principal place of business in the State of Illinois.

10 **THE INSURANCE POLICIES**

11 10. Intel, through California based insurance broker, Marsh, purchased several  
12 layers of comprehensive liability insurance from a variety of insurance companies  
13 during the April 1, 2001 through April 1, 2002 time period. Those occurrence-based  
14 comprehensive liability policies sit above a \$11 million retention and a fronting policy  
15 issued by Old Republic Insurance Company (“ORIC”) with limits of \$5 million in the  
16 aggregate including defense costs. Intel already has exhausted the retention and ORIC  
17 fronting policy as well as the second layer policy which sits directly below the AGLI  
18 Policy.

19 11. Sitting immediately above this \$11 million retention and \$5 million  
20 fronting policy, and directly below the AGLI Policy, is Commercial Umbrella Policy  
21 No. HFL 004-27-84-01 (the “XL 01-02 Policy”) issued by XL Insurance America, Inc.  
22 (“XL”) to Intel in California, which provides \$50 million in coverage for defense and/or  
23 indemnity in excess of the retention/fronting policy for each occurrence resulting in  
24 Ultimate Net Loss to Intel, as defined in the XL 01-02 Policy, during the policy period  
25 of April 1, 2001 to April 1, 2002. The XL 01-02 Policy includes defense costs within  
26 limits.

27 12. The XL 01-02 Policy required XL to:  
28

1 [D]efend any suit against the Insured alleging such injury or  
2 destruction and seeking damages on account thereof, even if  
3 such suit is groundless, false or fraudulent, and to pay all  
4 allocated claims expenses . . . .

5 XL 01-02 Policy, at II.

6 13. The XL 01-02 Policy covers liability on account of “Advertising Liability”  
7 which is defined to include:

8 Injury arising out of offenses *such as, but not limited to*, libel,  
9 slander, defamation, infringement of copyright, title (including  
10 trademark) or slogan, piracy, unfair competition, idea  
11 misappropriation (including trade secrets), breach of  
12 confidential information, electronic mail intercepts,  
13 misappropriation of the style of doing business (including  
14 website/homepage design), or invasion of rights of privacy  
15 *committed, or alleged to have been committed, in any*  
16 software, *advertisement, promotion*, publicity article,  
17 broadcast or telecast.

18 XL 01-02 Policy, at III (E) (emphasis added).

19 14. The XL 01-02 Policy defines an “occurrence,” with respect to “Advertising  
20 Liability,” as follows:

21 an offense, which results in **advertising liability** arising out of  
22 the **Named Insured’s** advertising activities. All damages  
23 involving the same injurious material or act, regardless of the  
24 frequency or repetition therefore, the number or kind of media  
25 used, and the number of claimants, and all such damages shall  
26 be considered as arising out of one **occurrence**.

27 XL 01-02 Policy, at III (J)(3) (emphasis in original).

1 15. Intel has exhausted the XL 01-02 Policy through payments for defense by  
2 XL to Intel in California and Intel's own expenditures for the defense of the AMD  
3 Litigation.

4 16. Intel has exhausted the ORIC fronting policy and its retention through the  
5 payment of defense costs.

6 17. AGLI issued a Following Form Excess Liability Policy No. AEC 5228803  
7 00 (the "AGLI Policy") to Intel at its corporate headquarters in Santa Clara, California,  
8 which provides \$50 million in total defense and/or indemnity coverage in excess of \$66  
9 million. The AGLI Policy "follows form," *i.e.*, contains the same terms and conditions  
10 as the XL 01-02 Policy including, explicitly, the Advertising Liability coverage grant in  
11 the XL 01-02 Policy. True and correct copies of the XL 01-02 Policy and AGLI Policy  
12 are attached hereto as Exhibits A and B respectively, and are incorporated herein by  
13 reference.

#### 14 THE AMD LITIGATION

15 18. On June 26, 2005, *AMD v. Intel*, Case No. 05-441, was filed in the U.S.  
16 District Court for Delaware. The plaintiff, AMD, asserts three claims against Intel: (1)  
17 Willful Maintenance of a Monopoly in Violation of Sherman Act, Section 2; (2) Secret  
18 Discriminatory Rebates and Discounts in Violation of California Bus. & Prof. Code §  
19 17045; and (3) Interference With Prospective Economic Advantage in Violation of  
20 California Bus. & Prof. Code § 17045. AMD seeks damages and treble damages for its  
21 alleged lost profits, injunctive relief prohibiting Intel from engaging in "further conduct  
22 unlawful under Section 2 of the Sherman Act or Section 17045 of the California Bus. &  
23 Prof. Code," as well as attorneys fees and costs for the action. A true and correct copy  
24 of the complaint filed in the *AMD v. Intel* lawsuit is attached hereto as Exhibit C and  
25 incorporated herein by reference.

26 19. On July 12, 2005, the lawsuit entitled *Paul v. Intel*, Case No. 05-485, was  
27 filed in the same court. The plaintiffs in that action assert seven claims against Intel and  
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1 seek damages alleging: (1) Violation of Section 2 of the Sherman Act; (2) Violation of  
2 the California Cartwright Act, California Bus. & Prof. Code § 16720; (3) Violation of  
3 California's Tort Law Against Monopolization; (4) Violation of the California Unfair  
4 Competition Law, California Bus. & Prof. Code § 17200 et seq.; (5) Violation of State  
5 Antitrust and Restraint of Trade Laws; (6) Violation of State Consumer Protection and  
6 Unfair Competition Laws; (7) Unjust Enrichment and Disgorgement of Profits. This  
7 lawsuit, including other actions with very similar allegations, has been consolidated as  
8 *In Re Intel Corporation Microprocessor Antitrust Litigation*, MDL No. 1717-JJF ("the  
9 Consolidated AMD Actions"). A true and correct copy of the complaint filed in the  
10 *Paul v. Intel* lawsuit is attached hereto as Exhibit D and incorporated herein by  
11 reference.

12         20.     Additionally, another set of lawsuits which allege claims similar to the  
13 *Paul v. Intel* lawsuit pending in the Superior Court of California for the County of Santa  
14 Clara and have been consolidated and entitled the *Intel X86 Microprocessor Cases*  
15 (JCCP 4443) (the "California AMD Action"). As referenced above, the Consolidated  
16 AMD Actions and the California AMD Action will be referred to collectively as "the  
17 AMD Litigation."

18         21.     The complaints in the AMD Litigation, allege, among other things, that  
19 during the AGLI Policy period of 2001 to 2002, Intel engaged in unfair business  
20 practices and anticompetitive conduct in its sale, promotion and marketing of its  
21 microprocessors. Accordingly, these allegations trigger the potential for coverage under  
22 the "Advertising Liability" provision of the AGLI Policy. For example, the Master  
23 Class Action Complaint in the *In Re Intel Corporation Microprocessor Antitrust*  
24 *Litigation* case alleges that Intel's market development funds ("MDF"), promotional and  
25 advertising campaigns constituted unfair competition. This Complaint contains the  
26 following alleged description of the MDF program:



1 The major retailers demand market development funds (MDF)  
2 in exchange for shelf space. MDF can consist of *cooperative*  
3 *advertising support*, but more frequently it comprises a  
4 marketing related opportunity that a chipmaker must buy for  
5 tens of thousands of dollars; for example, *for space in a*  
6 *Sunday circular, an in-store display* or an Internet training  
7 opportunity with the chain's sales staff. The MDF required to  
8 *secure shelf space* can run as high as \$25 per box depending  
9 on the computer price point and how urgently the competing  
10 chip makers want the shelf space.

11 *In Re Intel Corporation Microprocessor Antitrust Litigation*, Master Complaint, ¶ 99  
12 (emphasis added). A true and correct copy of the *In Re Intel Corporation*  
13 *Microprocessor Antitrust Litigation*, Master Complaint is attached hereto as Exhibit E  
14 and is incorporated by reference.

15 22. As a further example of the advertising allegations, many of the complaints  
16 in the AMD Litigation allege:

17 Through its economic muscle and relentless marketing –  
18 principally its “Intel Inside” and “Centrino®” programs,  
19 which financially reward OEMs for branding their PCs as Intel  
20 machines – Intel has transformed the OEM world.

21 *See, e.g., Naigow v. Intel*, United States District Court, San Francisco Division, Case  
22 No. C-05-2898, Complaint, ¶ 37. A true and correct copy of the *Naigow v. Intel*  
23 complaint is attached hereto as Exhibit F and is incorporated herein by reference.

#### 24 **THE STANDSTILL AND CONFIDENTIALITY AGREEMENT**

25 23. In June 2008, as part of an effort to avoid litigation, Intel and AGLI entered  
26 into a Standstill and Confidentiality Agreement whereby Intel's claim for coverage  
27 against AGLI would be tolled and Intel would be able to share confidential information  
28



1 with AGLI for purposes of evaluating Intel's claim. A true and correct copy of the  
2 Standstill and Confidentiality Agreement is attached hereto as Exhibit G and is  
3 incorporated herein by reference.

4 24. The Standstill and Confidentiality Agreement provides: "Following the  
5 expiration of this Agreement, the Insurance Company [AGLI] shall treat as confidential  
6 all materials that have been received from Intel as confidential." Standstill and  
7 Confidentiality Agreement, Exh. G, ¶ 8.

8 25. The Standstill and Confidentiality Agreement also provides that "[a]ny  
9 disputes with regard to this Standstill and Confidentiality Agreement shall be decided in  
10 a California court under California law." Standstill and Confidentiality Agreement,  
11 Exh. G, ¶ 17.

12 **AGLI REPUDIATED ITS POLICY OBLIGATIONS AND BREACHED THE**  
13 **PARTIES' STANDSTILL AND CONFIDENTIALITY AGREEMENT**

14 26. Intel advised AGLI of the AMD Litigation. Moreover, once the retention  
15 and fronting policy as well as the XL 01-02 Policy was exhausted through the payment  
16 of defense costs for the AMD Litigation, Intel advised AGLI that it was obligated to  
17 provide an immediate defense and to promptly pay all reasonable defense costs and  
18 expenses incurred by Intel.

19 27. Pursuant to the terms of the Standstill and Confidentiality Agreement, Intel  
20 provided AGLI with information related to the AMD Litigation and information  
21 regarding Intel's trade secret protected, proprietary and confidential insurance program.

22 28. Despite the clear potential of covered liability presented by the AMD  
23 Litigation, AGLI summarily denied coverage leaving Intel to defend itself in the AMD  
24 Litigation without the benefits owed under the AGLI Policy.

25 29. AGLI filed a declaratory relief lawsuit against Intel and fifteen (15) other  
26 insurance companies on January 23, 2009 at 12:03 am EST in the Superior Court of the  
27 State of Delaware, New Castle Division, Case No. 09C-01-170 TBA. AGLI  
28

1 disregarded the Standstill and Confidentiality Agreement by publishing Intel's  
2 confidential insurance information as part of AGLI's Complaint in the Delaware  
3 Superior Court.

4 **FIRST CAUSE OF ACTION**

5 **[Declaratory Relief With Regard to AGLI's Duty to Defend]**

6 30. Intel re-alleges and incorporates by reference paragraphs 1 through 29  
7 above as though set forth fully herein and alleges against AGLI as follows.

8 31. The insuring provisions of the of the AGLI Policy obligate AGLI to pay  
9 the defense costs and expenses incurred by Intel, in excess of its retention, fronting  
10 policy and the XL 01-02 Policy, in defending against the AMD Litigation. No  
11 exclusions or any other terms or conditions in the AGLI Policy bar or preclude AGLI's  
12 duty to pay Intel's defense costs and expenses incurred defending against the AMD  
13 Litigation.

14 32. Intel has at all times relevant to the AGLI Policy performed all of the  
15 obligations required of it under the AGLI Policy, except as excused. All conditions  
16 precedent to performance by AGLI pursuant to the terms of the AGLI Policy, including  
17 exhaustion of underlying limits and amounts, have been met, are excused or otherwise  
18 have been prevented by AGLI from occurring.

19 33. Intel is entitled to have the AGLI Policy interpreted in a reasonable manner  
20 that maximizes its insurance coverage.

21 34. Intel is informed and believes and thereon alleges that AGLI disputes the  
22 contentions as set forth above. Therefore, an actual and justiciable controversy exists  
23 between AGLI and Intel concerning the matters alleged.

24 35. Intel therefore seeks a judicial declaration that it has a right to  
25 reimbursement and payment of defense costs under the AGLI Policy for the AMD  
26 Litigation, confirming Intel's contentions as stated above. A declaration is necessary at  
27  
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1 this time in order that the parties' dispute may be resolved and that the parties may be  
2 aware of their respective rights and duties.

3 **SECOND CAUSE OF ACTION**

4 **[Breach of Contract – Duty to Defend the AMD Litigation]**

5 36. Intel re-alleges and incorporates by reference paragraphs 1 through 35  
6 above as though fully set forth herein and alleges against AGLI as follows.

7 37. AGLI has breached its duties under the AGLI Policy by repudiating and  
8 otherwise denying its obligation to provide defense coverage for the AMD Litigation.

9 38. As a direct and proximate result of AGLI's material breach of contract,  
10 Intel has been deprived of the benefits of the AGLI Policy and has suffered general and  
11 consequential damages including, but not limited to, the following:

- 12 (a) Intel has incurred and continues to incur attorneys' fees, expenses and  
13 costs in defending itself against the AMD Litigation;  
14 (b) Intel has incurred and continues to incur attorneys' fees, expenses and  
15 costs in seeking the benefits of its insurance contracts.

16 39. The full scope of the damages cannot be determined at this time, but is  
17 clearly in excess of the \$75,000 jurisdictional threshold of this court.

18 **THIRD CAUSE OF ACTION**

19 **[Declaratory Relief With Regard To AGLI's Duty to Indemnify]**

20 40. Intel re-alleges and incorporates by reference paragraphs 1 through 39  
21 above as though fully set forth herein and alleges against AGLI as follows.

22 41. The insuring provisions of the of the AGLI Policy obligate AGLI to  
23 indemnify Intel with respect to the loss incurred by Intel, in excess of its retention,  
24 fronting policy and the XL 01-02 Policy, with respect to the AMD Litigation. No  
25 exclusions or any other terms or conditions in the AGLI Policy bar or preclude AGLI's  
26 duty to indemnify Intel for the AMD Litigation.

1 42. Intel has at all times relevant to the AGLI Policy performed all of the  
2 obligations required of it under the AGLI Policy, except as excused. All conditions  
3 precedent to performance by AGLI pursuant to the terms of the AGLI Policy, including  
4 exhaustion of underlying limits and amounts, have been met, are excused or otherwise  
5 have been prevented by AGLI from occurring.

6 43. Intel is entitled to have the AGLI Policy interpreted in a reasonable manner  
7 that maximizes its insurance coverage.

8 44. Intel is informed and believes and thereon alleges that AGLI disputes the  
9 contentions as set forth above. Therefore, an actual and justiciable controversy exists  
10 between AGLI and Intel concerning the matters alleged.

11 45. Intel therefore seeks a judicial declaration that it has a right to indemnity  
12 under the AGLI Policy for the AMD Litigation, confirming Intel's contentions as stated  
13 above. A declaration is necessary at this time in order that the parties' dispute may be  
14 resolved and that the parties may be aware of their respective rights and duties.

#### 15 **FOURTH CAUSE OF ACTION**

##### 16 **[Breach of Contract - Standstill and Confidentiality Agreement ]**

17 46. Intel re-alleges and incorporates by reference paragraphs 1 through 45  
18 above as though fully set forth herein and alleges against AGLI as follows.

19 47. AGLI breached its duties under the Standstill and Confidentiality  
20 Agreement by publishing Intel's trade secret protected, proprietary and confidential  
21 insurance program information in the lawsuit entitled *AGLI v. Intel, et al*, filed in the  
22 Superior Court of the State of Delaware, New Castle Division, Case No. 09C-01-170  
23 TBA.

24 48. As a direct and proximate cause of AGLI's material breaches of the  
25 Standstill and Confidentiality Agreement, Intel has suffered prejudice in the AMD  
26 Litigation, and has suffered general and consequential damages including, but not  
27 limited to, the following:  
28

- 1 (a) Intel has incurred and will continue to incur attorneys' fees, expenses  
2 and costs in seeking to have its confidential information sealed;
- 3 (b) Intel has incurred and will continue to incur attorneys' fees, expenses  
4 and costs in enforcing the terms of the Standstill and Confidentiality  
5 Agreement; and
- 6 (c) Intel has been damaged in an amount to be determined for the prejudice  
7 it has suffered by having its confidential information make public.

8 49. The full scope of Intel's damages cannot be determined at this time but is  
9 clearly in excess of the \$75,000 jurisdictional threshold of this court.

10 **FIFTH CAUSE OF ACTION**

11 **[Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing]**

12 50. Intel re-alleges and incorporates by reference paragraphs 1 through 49  
13 above as though fully set forth herein and alleges against AGLI as follows.

14 51. Implied in the AGLI Policy is a covenant that AGLI would act in good  
15 faith and deal fairly with Intel, that AGLI would do nothing to interfere with the rights  
16 of Intel to receive the benefits of the AGLI Policy, and that AGLI would give the same  
17 level of consideration to the interests of Intel as AGLI gives to its own interests.  
18 Instead, AGLI acted maliciously and in bad faith with respect to the AMD Litigation.  
19 AGLI's bad faith included, but is not limited to the following badges of bad faith:

- 20 (a) Asserting grounds for denying or limiting coverage based on assertions  
21 contrary to the facts, the law, insurance industry custom and practice,  
22 and Intel's reasonable expectations as a policyholder;
- 23 (b) Failing to investigate properly Intel's claim for a defense of the AMD  
24 Litigation;
- 25 (c) Failing to give equal weight to Intel's interests as its own;
- 26 (d) Refusing to pay costs or reimburse Intel for loss within the coverage of  
27 the AGLI Policy without any legitimate basis for doing so;
- 28

- 1 (e) Ignoring applicable law and unreasonably interpreting policy language  
2 in its own favor, even though Intel's interpretation of that language was  
3 and is reasonable, interpreting coverage provisions too narrowly and  
4 exclusions too broadly and attempting to add requirements and  
5 restrictions to coverage that are not present in the AGLI Policy;
- 6 (f) Publishing Intel's trade secret protected, proprietary and confidential  
7 insurance coverage program information in the lawsuit entitled *AGLI v.*  
8 *Intel, et al*, filed in the Superior Court of the State of Delaware, New  
9 Castle Division, Case No. 09C-01-170 TBA, despite having entered into  
10 an agreement with Intel whereby it promised to keep Intel's information  
11 confidential; and
- 12 (g) Otherwise acting as alleged above, contrary to the obligations imposed  
13 by the covenant of good faith and fair dealing.

14 52. In breach of the implied covenant of good faith and fair dealing and of its  
15 fiduciary-like duties to its insured, AGLI did the things and committed the acts alleged  
16 above for the purpose of consciously and unreasonably withholding from Intel the rights  
17 and benefits to which Intel was entitled under the AGLI Policy.

18 53. Accordingly, Intel is entitled to recover all attorneys fees that it reasonably  
19 has incurred in its efforts to obtain insurance benefits that wrongfully were withheld in  
20 bad faith by AGLI.

21 54. These actions of AGLI, as set forth above, were malicious, fraudulent and  
22 oppressive, and were undertaken with conscious disregard for Intel's known rights and  
23 with intent to vex, hinder and annoy Intel so as to constitute oppression, fraud, and/or  
24 malice, justifying punitive and exemplary damages against AGLI in an amount to be  
25 determined by proof at the time of trial that is sufficient to punish and set an example of  
26 AGLI and to deter similar conduct in the future.

**PRAYER**

WHEREFORE, Intel prays for judgment as follows:

On The First Cause of Action:

1. For a declaration that Intel's contentions as set forth above are correct, including without limitation that AGLI has a duty to defend Intel in the AMD Litigation;

On The Second Cause of Action:

2. For damages according to proof at the time of trial, but no less than \$50 million, plus interest;

On The Third Cause of Action:

3. For a declaration that Intel's contentions as set forth above are correct including without limitation that AGLI has a duty to indemnify Intel in the AMD Litigation;

On The Fourth Cause of Action:

4. For damages according to proof at the time of trial;

On The Fifth Cause of Action:

- 5. For damages according to proof at the time of trial plus interest;
- 6. For its reasonable attorneys fees incurred in its efforts to obtain the benefits due under the AGLI Policy;
- 7. For punitive damages in an amount sufficient to punish AGLI and to make an example of AGLI in order to deter similar conduct in the future;

On All Causes of Action:

- 8. For its costs of suit incurred herein;
- 9. For reasonable attorneys fees incurred in its efforts to obtain the benefits due under the AGLI Policy; and



1 10. For such other and further relief as may be deemed just and proper.

2  
3 Dated: January 28, 2009

HOWREY LLP

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5 By:           /s/ Lester O. Brown            
6 Lester O. Brown  
7 Attorneys for Plaintiff  
8 Intel Corporation  
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10 **DEMAND FOR JURY TRIAL**

11  
12 Intel hereby demands a jury trial in this action.

13  
14 Dated: January 28, 2009

HOWREY LLP

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17 By:           /s/ Lester O. Brown            
18 Lester O. Brown  
19 Attorneys for Plaintiff  
20 Intel Corporation  
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