

ORIGINAL

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



)
In the Matter of)
)
INTEL CORPORATION,)
a corporation)
)
_____)

DOCKET NO. 9341
PUBLIC DOCUMENT

**STIPULATION BETWEEN INTEL AND COMPLAINT COUNSEL REGARDING
RESPONDENT'S PRODUCTION OF DOCUMENTS AND ELECTRONICALLY
STORED INFORMATION IN RESPONSE TO COMPLAINT COUNSEL'S FIRST SET
OF REQUESTS FOR PRODUCTION**

IT IS STIPULATED BY AND AGREED TO BETWEEN COMPLAINT COUNSEL
AND INTEL, BY AND THROUGH THEIR RESPECTIVE COUNSEL AND SUBJECT TO
THE APPROVAL OF THE COURT, AS FOLLOWS:

1. Intel and Complaint Counsel have reached an agreement in principle on
production and e-discovery protocols, subject to the terms and provisions set forth below, to
govern Intel's response to Complaint Counsel's First Requests for the Production of Documents
dated January 18, 2010 ("First Requests for Production"). The Parties have agreed to a targeted
approach, focused on a Custodial and Search Term protocol as detailed herein.

CUSTODIAL APPROACH TO PRODUCTION

2. The Parties will work together to develop a Custodian List, as set forth below,
containing the universe of Intel Custodians whose files will be searched in order to comply with
the First Requests for Production, subject to certain Corporate and Transactional requests.

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3. Intel will propose an initial Custodian List to Complaint Counsel by February 3, 2010. In selecting such Custodians, Intel represents that after reasonable investigation the list represents Custodians that are likely to have material, non-privileged, non-duplicative documents, and whose inclusion on the list is necessary to provide documents sufficient to respond to the First Requests for Production. Intel further represents that it will not knowingly exclude any Custodian on the basis that the Custodian's documents will be favorable to Complaint Counsel's case or harmful to Intel's defenses.

4. To the extent requested by Complaint Counsel, Intel will work in good faith with Complaint Counsel, utilizing organizational charts and other means, to facilitate Complaint Counsel's development of any additional Custodian names. Intel will supply a reasonable set of organization charts to Complaint Counsel by February 4, 2010. Complaint Counsel will provide a list of additional Custodians not later than February 10, 2010. Should the Parties not agree on a Custodian List allowing for completion of production under the discovery schedule, the parties reserve their rights to seek relief before the Court.

5. Complaint Counsel retains the right to request additional Custodians beyond those designated, upon a representation of good faith that such Custodians are likely to possess material, non-privileged, non-duplicative documents. Intel retains the right to oppose any such request by seeking a protective order from this Court.

SEARCH TERM PROTOCOL

6. The Parties further agree that, except in the preparation of responses to Complaint Counsel's corporate and transactional requests, a search term methodology is appropriate and

necessary to narrow the universe of documents subject to review and production in response to the First Request.

7. Intel agrees to develop an initial list of search terms aimed at capturing responsive documents to each of the requests (as modified by any agreement of the parties), while limiting the set of documents to be reviewed to a reasonable size. The initial list of search terms will be provided to Complaint Counsel on February 8, 2010.

8. The Parties will meet and confer to negotiate additional search terms that may be added to the protocol, or to agree upon terms that may be deleted from the protocol. At Complaint Counsel's request, the Parties will cooperate to create a test protocol on the efficacy of the search terms, including, but not limited to, testing against a subset of documents that would not have been captured by the search terms. The Parties will attempt through these negotiations to come up with a final list of Custodians and search terms that provides Complaint Counsel the most important documents in this case, but also accounts for the discovery deadlines in this matter and reasonable resource limitations.

9. The final Search Term List will be agreed to by the Parties not later than February 15, 2010. Should the Parties not reach agreement on a Search Term List, the parties reserve the right to seek relief from the Court.

10. Intel will run the keyword searches from the Search Term List against the documents for each Custodian on the Custodian List for the relevant time period. Intel will review such documents and produce the non-privileged, responsive documents to Complaint Counsel.

11. Complaint Counsel may, upon a representation of good faith, request additional search terms to be run against the corpus of unproduced documents from the Custodian List and to have the opportunity to evaluate the adequacy of the Search Term List and to review a subset of such documents so long as the size of the subset of documents to be reviewed is reasonable. Intel retains the right to oppose any such request and seek a protective order from this Court.

12. The parties agree to renegotiate the search terms and/or Custodians if the creation of the universe of documents to be reviewed (i) would yield the production of such a large number of documents that its use in this litigation by either party is unrealistic; or (ii) would yield the production of such a small number of documents that the production is unlikely to meet the discovery needs of Complaint Counsel.

CORPORATE REQUESTS

13. The Parties agree that certain requests in the First Requests for Production are not best-suited for a Custodial approach. Such Requests are more properly pulled generally from Intel's corporate files, without the need for identification of particular Custodians. The de-duplication protocol set forth herein will be applied to documents collected in response to corporate requests.

14. The Parties agree that the following Requests for Production are best suited to production as Corporate Requests: 1, 27-28, 39, 45, 47, 51, and 49 to the extent it relates to agreements, and that these Requests will be collected generally from Intel's corporate files, without the need for search and identification of the files of particular Custodians

DATABASE PRODUCTION

15. The Parties agree that certain Requests for Production fall outside the scope of either Custodial or Corporate productions, and are more properly produced in Database form. The Parties agree to negotiate in good faith the fields to be produced within these databases, and reserve the right to bring any unresolved disputes to the Court. The Parties agree to conclude their discussions regarding Database productions not later than February 15, 2010.

16. The Parties agree that the following requests are best suited to production in Database format: 7, 8, 9, 10, 11 to the extent it seeks production of data, and 37 to the extent it seeks production of pricing data.

SHARE SOURCES

17. Intel represents that share sources, defined as data sites shared on Intel's servers by a number of users, may contain some amount of relevant, non-duplicative documents for production in this matter, but also contain a large volume of information that is either not relevant to this matter, or duplicative of materials otherwise contained in Custodian files and thereby produced. Intel will, based on a reasonable investigation, provide a list of share sources potentially containing some amount of relevant, non-duplicative materials on a rolling basis, with a final list provided to Complaint Counsel by February 15, 2010. The parties will engage in a meet and confer process in order to provide Complaint Counsel with an understanding of the contents of such share sources, and metrics from the *AMD v. Intel* case concerning the importance of documents resident on shared sources.

18. Intel will propose a list of share sources for inclusion in its production review, based upon key word searching as described above, and based on Intel's experience with the

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types, relevance, uniqueness, and importance of documents resident on shared sources.

Complaint Counsel may initially designate 20 share sources for inclusion in Intel's production.

Complaint Counsel also retains the right to select additional share sources for production, upon a representation of good faith that these additional sources likely contain material, non-privileged, non-duplicative documents. Intel retains the right to oppose any such request for additional share sources and seek a protective order from the Court.

19. Share source materials will be produced without regard to Intel's Custodian List.

ELECTRONIC DISCOVERY PROTOCOLS

20. The parties will meet and confer on an electronic discovery protocol, including cost issues. Any remaining issues may be resolved by the Court.

21. The Parties agree that de-duplication protocols will reduce the volume of documents for review and production and maximize efficiencies for both Parties. Therefore, Intel shall engage in a horizontal de-duplication ("across" Custodians, Corporate Requests and Share Sources). Intel will, if requested, meet-and-confer with Complaint Counsel regarding the technical aspects of the de-duplication protocols.

CONFIDENTIALITY PROVISIONS

22. As used herein, the terms "Confidential Material" and "document" shall have the same meaning as set out in the Protective Order entered in this matter. Except as provided below, the Parties agree that all documents produced by Intel or third parties in this matter, including, but not limited to, all documents already produced from the *AMD v. Intel* litigation, shall be presumptively considered Confidential Material. In addition, for a period of twenty (20)

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days following the use of any document in this case, and subject to the Court's disposition of any relevant motion for *in camera* treatment of trial exhibits, the Confidential Material designation shall continue to apply. Documents used in this case shall lose their Confidential Material designation unless, within the twenty-day period, the producing party designates such documents as Confidential Material under the standards set out in the Protective Order. For purposes of this provision, use includes, but is not limited to, marking a document at a deposition, referring to a document in a filing, or any other use that would otherwise lead to public disclosure, except for documents or other material or testimony used as evidence at the hearing of this matter, which the parties agree is governed by 16 C.F.R. Section 3.45, the Scheduling Order, the Protective Order, and any other relevant orders of the Court.

23. Notwithstanding the Confidentiality provisions in this Stipulation, a producing party's documents may be shown to an individual who is not employed by the producing party provided that: (a) the individual was an author, recipient or copyee of the document, (b) counsel has a good faith basis to believe that the individual has received the document or has become familiar with its contents during the ordinary course of his or her business duties, or (c) counsel has a good faith basis to believe that the document had not been treated as confidential by the producing party. The use of any document in this manner shall not affect the presumptive designation of the document as Confidential Material or the producing party's right to designate the document as Confidential.

IDENTIFICATION OF DOCUMENTS

24. In all cases where native documents are utilized for any purpose without first being converted to TIFF format with an assigned Bates Number, the parties will identify such

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documents with the unique DCN assigned to the document by the e-discovery vendor in the field entitled "Document Control Number." The parties will attach to the document a cover sheet containing the DCN and the cover sheet will become part of the record for the sole purpose of identifying the document. In exigent circumstances, it will be permissible to handwrite the DCN number on a document. The parties reserve the right to challenge the authenticity of any document on the grounds that it was not accurately reproduced.

PRIVILEGE LOGS AND PRODUCTIONS

25. The creation of privilege logs shall be subject to the following:
- a. Complaint Counsel will initially designate not more than 28 Intel Custodians from the Custodian List as Privilege Log Custodians. Intel will provide a Privilege Log for these Custodians, not more than 30 days following substantial completion of the production of that Custodian's documents.
 - b. Upon Intel's representation in good faith that the burden of producing the logs will substantially interfere with meeting the discovery obligations set forth herein, the parties will meet and confer about reducing the burden. Any unresolved disputes may be brought to the Court.
 - c. The parties will work together to limit the number of Intel Privilege Log Custodians from Intel's legal department, recognizing the burden of logging documents from such Custodians, and in no event will Complaint Counsel designate more than 4 such Custodians.
 - d. Complaint Counsel may, upon a representation of good faith, request additional privilege logs. Intel reserves the right to oppose any such request.

26. The Parties recognize that some amount of documents initially captured as privileged during Intel's document review will, after further review, be later deemed as not privileged or partially privileged. Intel will produce any non-privileged or partially privileged redacted documents as soon as practicable.

INADVERTENT PRODUCTION

27. The provisions of Rule 3.31(g) shall apply to this matter.

PRODUCTION DATE CUTOFFS

28. The Parties agree to meet and confer concerning the starting and ending dates for the requests for production. Any disputes may be brought to the attention of the Court.

29. Intel represents that under the current schedule in the *Intel v. Nvidia* case, Intel will provide a production to Nvidia on or about February 15, 2010. Within three days following that production, Intel will produce the set of documents it produces in that case and will thereafter produce any supplemental productions.

RESERVATION OF RIGHTS

30. Nothing in this agreement limits Complaint Counsel's right to serve additional requests or to request the production of documents responsive to its First Requests for Production from other Custodians, nor does this agreement limit Intel's right to oppose any such requests.

31. Any unresolved issues in implementation of the Custodian and Key Word Protocols, or other outstanding issues, may be brought to the Court should the parties not be able to resolve these issues during the meet-and-confer process.

32. The Parties agree to separately negotiate modifications to Complaint Counsel's Requests for Production, and to seek to resolve Intel's objections to Complaint Counsel's Requests for Production, in lieu of Intel's filing of formal objections. Should the Parties reach an impasse, Intel reserves the right to file any remaining objections within three business days of such impasse, and either party may seek relief from the Court.

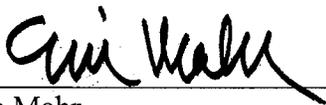
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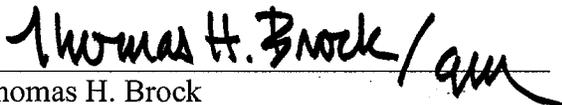
The Parties agree that this Agreement constitutes the Entire Agreement concerning Complaint Counsel's First Set of Requests for Production of Documents between the Parties and supersedes any prior agreements or communications.

Dated: January 28, 2010



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**[JOINT PROPOSED] ORDER REGARDING RESPONDENT'S PRODUCTION OF
DOCUMENTS AND ELECTRONICALLY STORED INFORMATION IN RESPONSE
TO COMPLAINT COUNSEL'S FIRST SET OF REQUESTS FOR PRODUCTION**

The parties jointly propose the entry of an Order regarding respondent's production of documents and electronically stored information in response to Complaint Counsel's First Set of Requests for Production.

Good cause having been shown,

IT IS ORDERED:

That the Stipulation of the Parties is accepted and shall be deemed an Order of this Court.

D. Michael Chappell
Administrative Law Judge

Dated: _____

Pursuant to 16 C.F.R. § 4.2, I hereby certify a paper copy of each of these documents with an original signature is being filed with the Secretary of the Commission today by hand, and a true and correct electronic copy of these documents is being sent to the Secretary by email to secretary@ftc.gov and dclark@ftc.gov.

WILMER CUTLER PICKERING HALE AND
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Dated: January 28, 2010