

ORIGINAL



**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

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

**DOCKET NO. 9341
PUBLIC**

**RESPONDENT'S ANSWERS AND OBJECTIONS TO COMPLAINT
COUNSEL'S SECOND SET OF REQUESTS FOR ADMISSION**

Pursuant to the Federal Trade Commission's Rules of Practice ("Rules"), 16 C.F.R. § 3.32, Respondent Intel Corporation ("Intel") hereby files its Answers and Objections to Complaint Counsel's Second Set of Requests for Admission ("Requests"), served on May 20, 2010.

GENERAL OBJECTIONS

1. Intel objects to Complaint Counsel's Requests to the extent that they call for information protected from discovery by the attorney-client privilege, the work product doctrine, or any other applicable privilege.
2. Intel objects to Complaint Counsel's Requests to the extent that they call for information protected from discovery pursuant to sections 3.31(c)(3)-(4) of the Rules.
3. Intel objects to Complaint Counsel's Requests to the extent they call for disclosure of its trade secrets and/or confidential and proprietary commercial and financial information. Intel will provide responses containing its confidential and proprietary information subject to the terms of the Protective Order Governing Discovery Material issued by Judge Chappell on December 16, 2009.

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4. Intel objects to Complaint Counsel's Requests to the extent they are overly broad, vague, ambiguous, unduly burdensome, oppressive, and are not reasonably calculated to lead to the discovery of admissible evidence. Intel denies each request, and/or each portion of a request, unless expressly admitted.

5. Intel objects to Complaint Counsel's Requests to the extent that they call for information previously provided to Complaint Counsel or information that may be less onerously obtained through other means.

6. Intel objects to Complaint Counsel's Requests to the extent they do not relate to statements or opinions of fact or of the application of law to fact, and thereby exceed the scope of Rule 3.32, governing admissions.

7. Intel objects to Complaint Counsel's Requests to the extent that any Request quotes from a document or references a statement and solicits an admission that the quote or statement is evidence of the truth of the matter asserted.

8. Intel reserves all of its evidentiary objections or other objections to the introduction or use of any response at any hearing in this action and does not, by any response to any Request, waive any objections to that Request, stated or unstated.

9. Intel does not, by any response to any Request, admit to the validity of any legal or factual contention asserted or assumed in the text of any Request.

10. Intel objects to Complaint Counsel's Requests on the ground that its discovery and analysis are ongoing and reserves the right to assert additional objections as appropriate, and to amend or supplement these objections and responses as appropriate.

11. Intel objects to Complaint Counsel's Requests to the extent they seek information prior to 2000 on the ground that Intel does not maintain data in a usable format responsive to

Complaint Counsel's Requests before 2000. The burden of responding to these Requests for the time period prior to 2000 is therefore unreasonably high, particularly because of the age and limited relevance of such data.

12. Intel objects to Complaint Counsel's Requests to the extent that they seek admissions regarding Intel's share of certain microprocessor markets without precisely defining either the type of microprocessor or the specific market segment to which the Requests are directed. Accordingly, Intel shall assume that all references to "microprocessors" refer to those microprocessors using the x86 instruction set.

The foregoing general objections shall apply to each of the following Requests whether or not restated in the response to any particular response.

SPECIFIC OBJECTIONS AND RESPONSES

REQUEST NO. 24. *Admit that the DMI bus could be used as an interface between CPUs and third party CHIPSETS.*

RESPONSE: Intel objects to this Request on the grounds that the term "CHIPSETS" is vague and ambiguous. Subject to and without waiving its objections, Intel states that it can neither admit nor deny this request because the DMI bus has never been used as an interface between CPUs and third party CHIPSETS; and whether the DMI bus could be so used would depend on several factors, including whether (a) the bandwidth and data transfer rates required for the third party CHIPSET to interact with the CPU are met by the DMI bus; (b) Intel has licensed the third party to connect a third party CHIPSET to the microprocessor through the DMI bus; (c) the third party has the technical capability to connect a third party CHIPSET to the microprocessor through the DMI bus; and (d) whether Intel has provided the third party with technical assistance or other collaboration that would be required to connect a third party CHIPSET to the microprocessor through the DMI bus.

REQUEST NO. 25. *Admit that Intel's worldwide unit share of the overall CLIENT CHIPSET market was less than 50% in 1999.*

RESPONSE: Denied.

REQUEST NO. 26. *Admit that Intel's worldwide unit share of the overall CLIENT CHIPSET market was greater than 65% in 2004.*

RESPONSE: Denied.

REQUEST NO. 27. *Admit that Intel's worldwide unit share of the overall CLIENT CHIPSET market was greater than 80% in 2009.*

RESPONSE: Denied.

REQUEST NO. 28. *Admit that Intel's worldwide unit share of CPUs used in servers has exceeded 60% for each year since 1999.*

RESPONSE: Admitted.

REQUEST NO. 29. *Admit that Intel's worldwide unit share of CPUs used in commercial/enterprise desktops has exceeded 70% for each year since 1999.*

RESPONSE: Admitted.

REQUEST NO. 30. *Admit that Intel's worldwide unit share of CPUs used in commercial/enterprise notebooks has exceeded 70% for each year since 1999.*

RESPONSE: Admitted.

REQUEST NO. 31. *Admit that Intel did not submit pricing data to Mercury Research for any year between 1999 and 2008.*

RESPONSE: Denied.

REQUEST NO. 32. *Admit that Intel has not licensed any third party to make, have made, use, sell or import CHIPSETS compatible with Intel's Nehalem or Westmere family of CPUs.*

RESPONSE: Denied. [REDACTED]

REQUEST NO. 33. *Admit that Intel has sold CPUs at times since 1999 that read on intellectual property owned by AMD.*

RESPONSE: Intel objects on the grounds of lack of foundation, vagueness, and ambiguity. It is unclear in what sense Complaint Counsel is using the term “read on,” and that term is, in the context used, neither understandable nor capable of admission or denial. To the extent that anything can be said to “read on” something else, it is the claims of a patent that may be said to “read on” a feature of a product. To the extent Complaint Counsel is seeking an admission that one or more features of one or more of Intel’s CPUs would infringe a valid AMD patent absent a cross-license, Intel states that such a legal determination can only be definitively made by a court or administrative tribunal with appropriate jurisdiction and no such determination has been made. Further, because Intel’s cross-license with AMD affords Intel freedom to operate without concern for infringement of AMD’s patents, determining whether, absent cross-license, any claim of any AMD patent would be held by such a court or tribunal to “read on” one or more feature of an Intel microprocessor would require the identification of a specific patent, the identification of a specific claim, a construction of the elements of that claim, and an element-by-element comparison of the claim to any feature of any product as to which it is claimed to “read on.” Thereafter, it would also be necessary to determine whether the claim would be held by such a court or such a tribunal to be valid and enforceable. Such an analysis would be a massive endeavor, could only be conducted by attorneys (and likely, therefore, be privileged), and avoiding the burden and expense of such an undertaking is among the reasons that parties enter into such cross licenses. Accordingly, subject to and without waiving its objections, Intel states that it lacks the information necessary to admit or deny the request and, after reasonable inquiry, the information known or readily obtainable by Intel is insufficient to enable Intel to admit or deny Request No. 33, and therefore Intel denies it.

REQUEST NO. 34. *Admit that Intel has sold CHIPSETS with integrated GRAPHICS since 2005 that read on intellectual property owned by Nvidia.*

RESPONSE: Intel objects on the grounds of lack of foundation, vagueness, and ambiguity. It is unclear in what sense Complaint Counsel is using the term “read on,” and that term is, in the context used, neither understandable nor capable of admission or denial. To the extent that anything can be said to “read on” something else, it is the claims of a patent that may be said to “read on” a feature of a product. To the extent Complaint Counsel is seeking an admission that one or more features of one or more of Intel’s CPUs would infringe a valid Nvidia patent absent a cross-license, Intel states that such a legal determination can only be definitively made by a court or administrative tribunal with appropriate jurisdiction and no such determination has been made. Further, because Intel’s cross-license with Nvidia affords Intel freedom to operate without concern for infringement of Nvidia’s patents, determining whether, absent such cross-license, any claim of any Nvidia patent would be held by such a court or tribunal to “read on” one or more feature of an Intel microprocessor would require the identification of a specific patent, the identification of a specific claim, a construction of the elements of that claim, and an element-by-element comparison of the claim to any feature of any product as to which it is claimed to “read on.” Thereafter, it would also be necessary to determine whether the claim would be held by such a court or tribunal to be valid and enforceable. Such an analysis would be a time consuming endeavor, could only be conducted by attorneys (and likely, therefore, be privileged), and avoiding the burden and expense of such an undertaking is among the reasons

that parties enter into such cross licenses. Accordingly, subject to and without waiving its objections, Intel states that it lacks the information necessary to admit or deny the request and, after reasonable inquiry, the information known or readily obtainable by Intel is insufficient to enable Intel to admit or deny Request No. 34, and therefore Intel denies it.

REQUEST NO. 35. *Admit that Intel has used the intellectual property it licensed from Nvidia to develop GRAPHICS products.*

RESPONSE: Intel objects to Request No. 35 on the grounds of vagueness and ambiguity. Intel states that it construes Request No. 35 as referencing Intel's development of its own graphics products. Subject to and without waiving its objections, Intel denies Request No. 35.

REQUEST NO. 36. *Admit that Intel's worldwide unit share of GRAPHICS sales was less than 30% in 1999.*

RESPONSE: Intel objects on the ground that integrated graphics and discrete graphics did not belong in the same product market in 1999 and avers that the admission request is not relevant to any issue in this proceeding. Subject to and without its objections, Intel admits Request No. 36.

REQUEST NO. 37. *Admit that Intel's worldwide unit share of GRAPHICS sales was less than 50% in 2004.*

RESPONSE: Intel objects on the ground that integrated graphics and discrete graphics did not belong in the same product market in 2004 and avers that the admission request is not relevant to any issue in this proceeding. Subject to and without waiving its objections, Intel admits Request No. 37.

REQUEST NO. 38. *Admit that Intel's worldwide unit share of GRAPHICS sales was greater than 70% in 2009.*

RESPONSE: Intel objects on the ground that integrated graphics and discrete graphics did not belong in the same product market in 2009 and avers that the admission request is not relevant to any issue in this proceeding. Subject and without waiving its objections, Intel denies Request No. 38.

REQUEST NO. 39. *Admit that Intel offered OEMs a price of an Atom CPU and Intel Chipset as a kit, in which the OEM purchased an Atom CPU and Intel chipset for one price.*

RESPONSE: Intel objects to this Request on the ground that it is vague and ambiguous, particularly as to the phrase "for one price," "kit," "Atom CPU," "Intel Chipset," and "OEMs,"

and as to the unspecified time period of the request. Subject to and without waiving its objections, Intel responds as follows: Intel denies Request No. 39, except admits that Intel has, at times, offered customers prices for the combined sale of Atom-branded processors and Intel chipsets, while, at the same time, offering prices for Atom-branded processors and Intel chipsets sold separately.

REQUEST NO. 40. *Admit that Intel offered OEMs a kit or bundled price of an Atom CPU and Intel Chipset that was contingent on the OEMs shipping computers that contained the Atom CPU and Intel Chipset*

RESPONSE: Intel objects to this Request on the ground that it is vague and ambiguous, particularly as to the phrase "for one price," "kit," "Atom CPU," "Intel Chipset," and "OEMs," "shipping," and "computers," and as to the unspecified time period of the request. Subject to and without waiving its objections, Intel responds as follows: Intel denies Request No. 40 except admits that Intel has, at times, offered customers prices for the combined sale of Atom-branded processors and Intel chipsets that were contingent on the customer integrating both components into the customers' systems.

REQUEST NO. 41. *Admit that Intel offered OEMs a kit or bundled price of an Atom CPU and Intel Chipset for use in computers within certain guidelines (e.g., screen size or type of computer operating system).*

RESPONSE: Intel objects to this Request on the ground that it is vague and ambiguous, particularly as to the phrases "kit or bundled price," "Atom CPU," "Intel Chipset," "OEMs," "certain guidelines," and "computers," and as to the unspecified time period of the request. Subject to and without waiving its objections, Intel responds as follows: Intel denies Request No. 41 except admits that it has, at times, offered customers prices for the combined sale of Atom-branded processors and Intel chipsets that were contingent on the customer using those components in systems meeting certain guidelines.

REQUEST NO. 42. *Admit that for some sales to OEMs of Atom CPUs and Intel Chipsets for use within certain guidelines (e.g., screen size or type of computer operating system), Intel offered a kit price of the Atom CPUs and Intel Chipset that was less than the price of the standalone Atom CPUs for use within the same guidelines.*

RESPONSE: Intel objects to this Request on the ground that it is vague and ambiguous, particularly as to the phrases "OEMs," "Atom CPU," "Intel Chipset," "OEMs," "certain guidelines," "standalone," and "for use within the same guidelines," and as to the unspecified time period of the request. Subject to and without waiving its objections, Intel denies Request No. 42.

REQUEST NO. 43. *Admit that Intel was the sole supplier of CPUs used in commercial desktops sold by Hewlett-Packard Company (“HP”) between 1999 and May 3, 2002 when HP merged with Compaq Computer Corporation (“Compaq”).*

RESPONSE: Intel is unable to admit or deny this Request. Intel does not have access to HP records indicating whether it sold commercial desktops that did not contain Intel CPUs in this period, and thus after a reasonable inquiry Intel states that the information sought in response to this request is not known or reasonably obtainable by Intel. Complaint Counsel should subpoena the sales records of HP to obtain the requested information. Intel notes that according to Gartner, HP sold commercial desktops containing AMD CPUs during this period.

REQUEST NO. 44. *Admit that Intel was the sole supplier of CPUs used in commercial desktops sold by Compaq between 1999 and May 3, 2002 when Compaq merged with HP on May 3, 2002.*

RESPONSE: Intel is unable to admit or deny this Request. Intel does not have access to Compaq records indicating whether it sold commercial desktops that did not contain Intel CPUs in this period, and thus after a reasonable inquiry Intel states that the information sought in response to this request is not known or reasonably obtainable by Intel. Complaint Counsel should subpoena Compaq’s sales records to obtain the requested information. Intel notes that according to Gartner, Compaq sold commercial desktops containing AMD CPUs during this period.

REQUEST NO. 45. *Admit that Intel provided 95% or more of the CPUs used in commercial desktops sold by HP between July 14, 2002 and May 2005.*

RESPONSE: Intel is unable to admit or deny this Request. Intel does not have access to HP records indicating the quantity of non-Intel based commercial desktops HP sold in this period, and thus after a reasonable inquiry Intel states that the information sought in response to this request is not known or reasonably obtainable by Intel. Complaint Counsel should subpoena the sales records of HP to obtain the requested information. [REDACTED]

[REDACTED] Intel notes, however, that according to Gartner data, Intel did not provide 95% or more of the CPUs used in commercial desktops sold by HP throughout the referenced period.

REQUEST NO. 46. *Admit that a condition of HPA1 (found at 70191DOC0000039) was that HP would purchase 95% or more of its CPUs used in commercial desktops from Intel.*

RESPONSE: Intel objects to this request on the ground that the term “condition” is undefined, rendering the request vague and ambiguous. Intel assumes that Complaint Counsel’s use of the term “condition” in this request refers to the standard legal definition, *i.e.*, a clearly stated,

specific, definite, and binding term in a contract. Subject to and without waiving its objections, Intel [REDACTED]

REQUEST NO. 47. *Admit that a condition of HPA2 (found at 66506DOC0000231) was that HP would purchase 95% or more of its CPUs used in commercial desktops from Intel.*

RESPONSE: Intel objects to this request on the ground that the term “condition” is undefined, rendering the request vague and ambiguous. Intel assumes that Complaint Counsel’s use of the term “condition” in this request refers to the standard legal definition, *i.e.*, a clearly stated, specific, definite and binding term in a contract. Subject to and without waiving its objections, Intel [REDACTED]

REQUEST NO. 48. *Admit that a condition of HPA3 (found at 66036DOC5000074) was that HP would purchase 95% or more of its CPUs used in commercial desktops from Intel.*

RESPONSE: Intel objects to this request on the ground that the term “condition” is undefined, rendering the request vague and ambiguous. Intel assumes that Complaint Counsel’s use of the term “condition” in this request refers to the standard legal definition, *i.e.*, a clearly stated, specific, definite and binding term in a contract. Subject to and without waiving its objections, Intel [REDACTED]

REQUEST NO. 49. *Admit that HP was not required to purchase from Intel any minimum volume of CPUs used in commercial desktops in order to receive the credits listed in HPA1 (found at 70191DOC0000039).*

RESPONSE: [REDACTED]

REQUEST NO. 50. *Admit that HP was not required to purchase from Intel any minimum volume of CPUs used in commercial desktops in order to receive the credits listed in HPA2 (found at 66506DOC0000231).*

RESPONSE: [REDACTED]

REQUEST NO. 51. *Admit that Intel provided 95% or more of the microprocessor used in commercial notebooks sold by HP between May 2005 and April 2006.*

RESPONSE: Intel does not have access to HP records indicating the quantity of non-Intel based commercial desktops HP sold in this period, and thus after a reasonable inquiry Intel states that the information sought in response to this request is not known or reasonably obtainable by Intel. Complaint Counsel should subpoena the sales records of HP to obtain the requested information. Intel notes that according to Gartner, more than 5% of HP's commercial notebook sales during this period were systems that contained AMD CPUs.

REQUEST NO. 52. *Admit that a condition of MMCP1 (found at 66470DOC5000002) was that HP would purchase 95% or more of its CPUs used in commercial notebooks from Intel.*

RESPONSE: Intel objects to this request on the ground that the term "condition" is undefined, rendering the request vague and ambiguous. Intel assumes that Complaint Counsel's use of the term "condition" in this request refers to the standard legal definition, i.e., a clearly stated, specific, definite and binding term in a contract. Subject to, and without waiving its objections, Intel [REDACTED]

REQUEST NO. 53. *Admit that Intel was the sole supplier of x86 CPUs used in servers sold by Compaq between 1999 and May 3, 2002 when Compaq merged with HP.*

RESPONSE: Intel is unable to admit or deny this Request. Intel does not have access to Compaq records indicating the quantity of servers Compaq sold in this period that did not contain Intel CPUs, and thus after a reasonable inquiry Intel states that the information sought in response to this request is not known or reasonably obtainable by Intel. Complaint Counsel should subpoena the sales records of Compaq to obtain the requested information. Intel notes that Gartner data supports the accuracy of this request.

REQUEST NO. 54. *Admit that Intel was the sole supplier of x86 CPUs used in servers sold by HP between 1999 and January 2004.*

RESPONSE: Intel is unable to admit or deny this Request. Intel does not have access to HP records indicating the quantity of servers HP sold in this period that did not contain Intel CPUs, and thus after a reasonable inquiry Intel states that the information sought in response to this request is not known or reasonably obtainable by Intel. Complaint Counsel should subpoena the sales records of HP to obtain the requested information. Intel notes that Gartner data supports the accuracy of this request.

REQUEST NO. 55. *Admit that Intel did not provide any rebates, discounts, or ECAPs for Intel x86 CPUs used in x86 servers sold by HP between February 2004 and March 2005.*

RESPONSE: Denied.

REQUEST NO. 56. *Admit that Intel disseminated or caused to be disseminated advertisements, including product labeling and other promotional materials, promoting its systems' performance under various benchmarks to induce consumers to purchase computers with Intel CPUs.*

RESPONSE: Intel objects to this request because it is compound in a number of respects. Intel further objects to this request because the terms "product labeling," "systems' performance under various benchmarks" and "induce" are vague and ambiguous. This Request also violates the requirement that a Request for Admission seek the admission of a singular fact. Subject to and without waiving its objections, Intel admits that it has used certain benchmarks in promoting its CPUs to its customers.

REQUEST NO. 57. *Admit that Intel made representations to consumers of personal computers regarding CPU performance as measured by BAPCO's Sysmark and Mobilemark benchmarks, Linpack benchmarks, Cinebench benchmarks, TPC benchmarks, SAP benchmarks, SPEC, or Futuremark PC Mark and PCMark Vantage benchmarks.*

RESPONSE: Intel objects to this request because it is compound in a number of requests. Intel further objects to this request because it is vague and ambiguous because the broadly-described collection of benchmarks are distributed under a variety of versions, names, components and aspects, which are unspecified in this request. Intel also objects to this request because the terms "representations," "consumers of personal computers," and "CPU performance" are vague and ambiguous. This Request also violates the requirement that a Request for Admission seek the admission of a singular fact. Subject to and without waiving its objections, Intel admits that it has made statements to some PC consumers regarding microprocessor performance as measured by certain permutations of at least one of these benchmarks but denies that it has made statements to PC consumers regarding microprocessor performance as measured by most of these benchmarks.

REQUEST NO. 58. *Admit that Intel made representations to OEMs regarding CPU performance as measured by BAPCO's Sysmark and Mobilemark benchmarks, Linpack benchmarks, Cinebench benchmarks, TPC benchmarks, SAP benchmarks, SPEC, or Futuremark PC Mark and PCMark Vantage benchmarks.*

RESPONSE: Intel objects to this request because it is compound in a number of requests. Intel further objects to this request because it is vague and ambiguous because the broadly-described collection of benchmarks are distributed under a variety of versions, names, components and aspects, which are unspecified in this request. Intel also objects to this request because the terms "representations" and "CPU performance" are vague and ambiguous. This Request violates the requirement that a Request for Admission seek the admission of a singular fact. Subject to and without waiving its objections, Intel admits that it has made statements to some OEMs regarding microprocessor performance as measured by certain permutations of some of these benchmarks but denies that it has made statements to all OEMs regarding microprocessor performance as measured by all of these benchmarks.

REQUEST NO. 59. *Admit that Intel made representations to ISVs regarding CPU performance as measured by BAPCO's Sysmark and Mobilemark benchmarks, Linpack benchmarks, Cinebench benchmarks, TPC benchmarks, SAP benchmarks, SPEC, or Futuremark PC Mark and PCMark Vantage benchmarks.*

RESPONSE: Intel objects to this request because it is compound in a number of requests. Intel further objects to this request because it is vague and ambiguous because the broadly-described collection of benchmarks are distributed under a variety of versions, names, components and aspects, which are unspecified in this request. Intel also objects to this request because the terms "representations" and "CPU performance" are vague and ambiguous. This Request also violates the requirement that a Request for Admission seek the admission of a singular fact. Subject to and without waiving its objections, Intel denies Request No. 59. Intel admits that it has made statements to certain ISVs regarding microprocessor performance as measured by certain permutations of some of these benchmarks but denies that it has made statements to all ISVs regarding microprocessor performance as measured by all of these benchmarks.

REQUEST NO. 60. *Admit that there is no objective measure to support the claim that SYSmark 2007 benchmark reflects a typical user experience.*

RESPONSE: Intel objects to this request because the terms "objective measure" and "typical user experience" are vague and ambiguous. Intel further objects to this request because there is no benchmark named SYSmark 2007. Subject to and without waiving its objections, and subject to Intel's understanding of this request, Intel denies Request No. 60. Because computer usage varies from user to user and even the same user makes different uses of a PC at different times of the same day, benchmarks are designed to approximate specific usage models. This is reflected in the existence of a multitude of benchmarks. SYSmark 2007 Preview reflects the collaborative

effort of a diverse group of industry stakeholders and constitutes the collective judgment of experts that SYSmark 2007 Preview is representative of the usage for which it was designed.

REQUEST NO. 61. *Admit that there is no objective measure to support the claim that SYSmark 2007 benchmark reliably measures user productivity.*

RESPONSE: Intel objects to this request because the terms “objective measure” and “user productivity” are vague and ambiguous. Intel further objects to this request because there is no benchmark named SYSmark 2007. Subject to and without waiving its these objections, Intel denies Request No. 61. Because computer usage varies from user to user and even the same user makes different uses of a PC at different times of the same day, benchmarks are designed to approximate specific usage models. This is reflected in the existence of a multitude of benchmarks. SYSmark 2007 Preview reflects the collaborative effort of a diverse group of industry stakeholders and constitutes the collective judgment of experts that SYSmark 2007 Preview is representative of the usage for which it was designed.

REQUEST NO. 62. *Admit that there is no objective measure to support the claim that BAPCo MobileMark 2007 benchmark and later versions reflects a performance evaluation of typical day-to-day computer use by business users.*

RESPONSE: Intel objects to this request because the terms “objective measure,” “performance evaluation,” “typical day-to-day computer use,” and “business users” are vague and ambiguous. Intel further objects to this request because there are no “later versions” of MobileMark 2007. Intel also objects to this request to the extent that Intel is unaware of any claim that “MobileMark 2007 and later versions reflects a performance evaluation of typical day-to-day computer use by business uses.” Subject to and without waiving these objections, Intel denies Request No. 62. The MobileMark 2007 benchmark is not a performance benchmark but is a suite of three battery life benchmarks, only one of which produces a performance qualifier score, and even that performance qualifier score is designed merely to indicate the tradeoff between battery life and computational performance. Further, because computer usage varies from user to user and even the same user makes different uses of a PC at different times of the same day, benchmarks are designed to approximate specific usage models. This is reflected in the existence of a multitude of benchmarks. MobileMark 2007 reflects the collaborative effort of a diverse group of industry stakeholders and constitutes the collective judgment of experts that MobileMark 2007 is representative of the usage for which it was designed.

Respectfully Submitted,

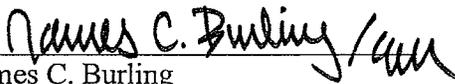
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Dated: June 1, 2010

CERTIFICATION

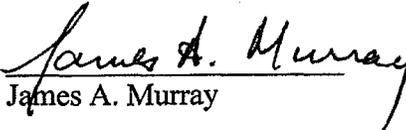
I, James A. Murray, declare as follows:

1. I am Associate General Counsel at Intel Corporation, which is the Respondent in the above-entitled action, and I have been authorized to make this verification on its behalf.

2. I have read the foregoing documents entitled Respondent's Answers and Objections to Complaint Counsel's Second Set of Requests for Admission and know the contents thereof.

3. I am informed and believe the information contained therein is accurate and true.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.


James A. Murray

Executed on June 1, 2010

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Dated: June 1, 2010