# UNITED STATES DISTRICT COURT

for the District of Minnesota

In re Intel Corporation Microprocessor Antitrust Litig.  Plaintiff  V.  Defendant	Civil Action No. MDL 05-1717 (JJF)  (If the action is pending in another district, state where:  District of Delaware
	TIFY AT A DEPOSITION IMENTS IN A CIVIL ACTION
To: Best Buy Co., Inc.	
deposition to be taken in this civil action. If you are an or	ear at the time, date, and place set <b>forth</b> below to testify at a rganization that is not a party in this case, you must designate signate other persons who consent to testify on your behalf ament:
Place: Robins, Kaplan, Miller & Ciresi L.L.P.	Date and Time:
<b>2800</b> LaSalle Plaza, 800 LaSalle Avenue Minneaaolis, MN 55402	04/07/2009 <b>9:00 am</b>
The deposition will be recorded by this method:	Court Reporter
	also bring with you to the deposition the following documents, permit their inspection, copying, testing, or sampling of the
The provisions of Fed. R. Civ. P. <b>45(c)</b> , relating to 45 (d) and (e), <b>relating</b> to your <b>duty</b> to respond to this sub attached.	o your protection as a person subject to a subpoena, and Rule poena and the potential consequences of not doing so, are
Date: April 3, 2009  CLERK OF COURT	OR KARRIMON CHA
Signature of Clerk or Deputy (	11000001
The name, address, e-mail, and telephone number of the a	ttorney representing (name of party) Class Plaintiffs
Karen Marcus, Finkelstein Thompson LLP, 1050 30th Str	who issues or <b>requests</b> this subpoena, are:

Civil Action No. MDL 05-1717 (JJF)

## PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for	(name of individual and title, if any)		
s received by me on (date	e)		
☐ I personally ser	ved the subpoena on the individual at	(place)	
	•	on (date)	; or
☐ I left the subpo∈	ena at the individual's residence or us	ual place of abode with (name)	
-	, a pe	erson of suitable age and discretion wh	o resides there
	, and mailed a copy to the		
☐ I served the sub	poena on (name of individual)		, who is
designated by law	to accept service of process on behal		
		on (date)	; or
I returned the su	ibpoena unexecuted because		;0
☐ Other (specify):  Unless the subpoer	na <b>was</b> issued on behalf of the United	States, or one of its officers or agents,	I have also
Unless the subpoen	ness fees for one day's attendance, an	States, or one of its officers or agents, d the mileage allowed by law, in the a	
Unless the subpoer tendered to the with	ness fees for <b>onc</b> day's attendance, an		
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Additional information regarding attempted service, etc:

#### Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

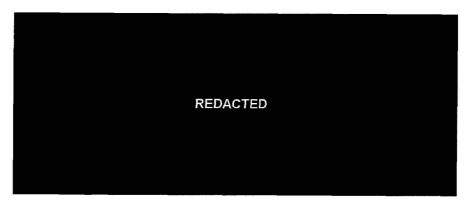
- (c) Protecting a Person Subject to a Subpoena
- (1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoenamust take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction which may include lost earnings and reasonable attorney's fees on a party or attorney who fails to comply.
  - (2) Command to Produce Materials or Permit Inspection.
- (A) Appearance Not Required A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.
- (B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:
- (i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
- (ii) These acts may be required only as directed in **the** order, and the order must **protect** a person who is **neither** a party nor a party's officer from significant **expense** resulting **from** compliance.
- (3) Quashing or Modifying a Subpoena
- (A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:
  - (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
  - (iv) subjects a person to undue burden.
- (B) When Permitted To protect a person subject to or affected by a **subpoena**, the issuing court may, on motion, quash or **modify** the subpoena if it requires:
- (9 disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion at information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by aparty; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.
- (C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:
- (i) shows a substantial **need** for the **testimony** or material that cannot **be** otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

- (d) Duties in Responding to a Subpoens.
- (1) **Producing Documents or Electronically Stored Information.**These procedures apply to producing **documents** or electronically stored information:
- (A)Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.
- (B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding mest produce it in a form or farms in which it is ordinarily maintained or in a reasonably usable form or Coms.
- (C) Electronically Stored Information Produced in Only One Form The person responding need not produce the same electronically stored information in more than one form.
- (D) Inaccessible Electronically Stored Information. The Person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.
- (2) Claiming Privilege or Protection.
- (A) Information Withheld A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:
  - (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.
- (B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.
- (e) Contempt. The issuing court may bold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

### Schedule A

### **DEFINITIONS AND INSTRUCTIONS**

- 1. The term "MICROPROCESSOR" means general purpose microprocessors using the x86 instruction set (*e.g.*, Sempron, Athlon, Turion, Opteron, Celeron, Pentium, Core, Core Duo, and Xeon).
- The term "BEST BUY" refers to BEST BUY COMPANY, INC. and any of its controlled present or former subsidiaries, parents, and predecessor or successor companies.
- 3. The term "COMPUTER SYSTEM" means any product that utilizes a MICROPROCESSOR including, without limitation, desktop computers, notebook computers and workstations.
- 4. The term "PURCHASE DATA" refers to the data files produced by BEST BUY in this litigation that reflect BEST BUY's purchases of x86 microprocessors and x86 computer systems.
- 5. The term "SALES DATA" refers to the data files produced by BEST BUY in this litigation that reflect BEST BUY's sales of x86 microprocessors and x86 computer systems.
- 6. The term "REBATE DATA" refers to the data files produced by BEST BUY in this litigation that reflect (i) any payment, subsidy, rebate, discount received by BEST BUY from a vendor, manufacturer, Intel or AMD in connection with BEST BUY's purchase of x86 microprocessors and/or x86 computer systems; (ii) as well as any rebates or discounts BEST BUY gave to their customers in association with the purchase of x86 microprocessors and/or x86 computer systems.
- 7. The term "LOOKUP TABLE" refers to the data files produced by BEST BUY in this litigation and entitled:

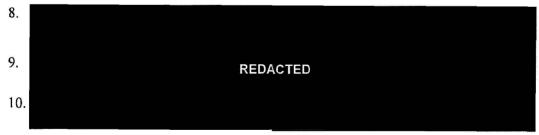


### REDACTED

8. The relevant time period for these topics is January 1,2000 to the present.

## **DEPOSITION TOPICS**

- The recordation, compilation, storage, and production of the data produced by BEST BUY in connection with this litigation, including the system in which that data was stored.
- 2. The manner in which the data produced by BEST BUY is maintained and prepared in the ordinary course of business
- 3. The data that Best Buy produced in this litigation, including the definitions for all data fields, abbreviations or codes reflected as values in any data fields, the provision of formulas for all calculated fields, product identification, and the interaction among the datasets produced, including but not limited to:
  - Your knowledge of the Sales data, how it relates to the Purchase, Rebate and Lookup Tables data, and how it may link to the Purchase, Rebate and Lookup Tables data.
- 4. Identifying the universe of files that represent BESTBUY's Sales data/Purchase data of x86 based computer systems and x86 microprocessors.
- 5. Explanation of the net acquisition cost of a product to BESTBUY.
- 6. Explanation of how rebates are captured in the Sales/Purchase data and identification of those adjustments in the data.
- 7. Identification in the Sales data of internal sales or transfers, product returns, credits and debits.



11. Description of the **consumer/vendor** rebates offered by BEST Buy and interpretation of the rebates in the Rebate Data; including identification of rebates related to microprocessors or computer systems.

12. Interpretation of and definitions for the values of different variables in the Lookup Tables as well as how variables in the Lookup Tables relate to other variables (both in the Lookup Tables and in other data sets).