IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

IN RE INTEL CORPORATION MICROPROCESSOR ANTITRUST LIFTGATION	MDL Docket No. 05-1717 (JJF)			
ADVANCED MICRO DEVICES, INC., a Delaware corporation, and AMD INTERNATIONAL SALES & SERVICE, LTD., a Delaware corporation,				
Plaintiffs,	C.A. No. 05-441 (JJF)			
v. .	PUBLIC VERSION Dated: June 22, 2009			
INTEL CORPORATION, a Delaware corporation, and INTEL KABUSHIKI KAISHA, a Japanese corporation				
Defendants.				
PHIL PAUL, on behalf of himself and all others similarly situated,	C.A. No. 05-485-JJF			
Plaintiffs,	CONSOLIDATED ACTION			
v.				
INTEL CORPORATION,				
Defendant.				

DECLARATION OF SARRETTA McDONOUGH IN SUPPORT OF INTEL'S REQUEST FOR IN CAMERA REVIEW OF DISPUTED DOCUMENT

A/73056844.1

OF COUNSEL:

Robert E. Cooper Daniel S. Floyd GIBSON, DUNN & CRUTCHER LLP 333 South Grand Avenue Los Angeles, CA 900071 (213) 229-7000

Darren B. Bernhard HOWREY LLP 1299 Pennsylvania Avenue N.W. Washington, DC 20004 (202) 783-0800

Donn P. Pickett BINGHAM McCUTCHEN LLP Three Embarcadero Center San Francisco, CA 94111 (415) 393-2000

Public Version Dated: June 22, 2009

Richard L. Horwitz (#2246) W. Harding Drane, Jr. (#1023) POTTER ANDERSON & CORROON LLP Hercules Plaza, 6th Floor 1313 N. Market Street P.O. Box 951 Wilmington, DE 19899-0951 (302) 984-6000 rhorwitz@potteranderson.com wdrane@potteranderson.com

Attorneys for Defendants Intel Corporation and Intel Kabushiki Kaisha I, SARRETTA McDONOUGH, declare as follows:

1. I am an attorney at Gibson, Dunn & Crutcher, counsel of record for Intel Corporation and Intel Kabushiki Kaisha ("Intel") in this matter. I am licensed to practice law in the State of California. I have personal knowledge of the matters stated in this declaration and, if called as a witness, could and would testify competently to them.

 Attached as <u>Exhibit A</u> is a true and correct copy of the subpoena Intel served on McKinsey & Company on or about June 21, 2006 ("McKinsey subpoena").

3. I have been working on behalf on Intel with respect to the McKinsey subpoena and have been responsible for negotiating the scope of McKinsey's document production in this matter.

 On February 4, 2008, I spoke with Heidi Balk, counsel for McKinsey, regarding McKinsey's document production in response to the McKinsey subpoena.

5. On February 4, 2008, I sent an e-mail to Ms. Balk containing a list of follow-up issues related to McKinsey's document production, which had been raised during our telephone conference on February 4, 2008. One of these issues was Intel's request that McKinsey produce all "documents relating to [its work on] 'Slingshot' or the filing of litigation or complaints against Intel." A true and correct copy of my email dated February 4, 2008 is included in an e-mail chain attached hereto as <u>Exhibit B</u>.

6. On March 17, 2008, Ms. Balk sent me an email identifying the projects McKinsey has worked on for AMD. A true and correct copy of this email is included in an e-mail chain attached hereto as <u>Exhibit B</u>.

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7. On June 26, 2008, I spoke with Christina Weis, a colleague of Ms. Balk's at the law firm of Stroock & Stroock & Lavan LLP, who had taken over representation of McKinsey from Ms. Balk. During that conversation, Ms. Weis responded to the various outstanding issues raised in my February 4, 2008 email to Ms. Balk (Exhibit B). Ms. Weis confirmed that McKinsey had no documents responsive to Intel's request for any and all communications or documents relating to AMD's filing of complaints with regulatory agencies or its civil suit against Intel – referred to by AMD as "Slingshot." Ms. Weis added that, in fact, AMD had asked McKinsey to assist on "Slingshot" but McKinsey had affirmatively declined AMD's request due to legal concerns.

8. On July 1, 2008, I sent Ms. Weis a letter confirming our June 26, 2008 conversation. A true and correct copy of this letter is attached hereto as Exhibit C.

I declare under penalty of perjury that the foregoing is true and correct. Executed this <u>1</u> day of <u>June</u>, 2009 at Los Angeles, California.

Sarretta McDanargh Sarretta McDonough

EXHIBIT A

OAÖBB (Rev. 1/94) Subpoent in a Civil Case Issued by the UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK Advanced Micro Devices, Inc. and AMD SUBPOENA IN A CIVIL CASE International Sales & Services, Ltd. Intel Corporation and Intel Kabushiki Kaisha Case Number: 05-441-JJF United States District Court, District of Delaware McKinsey & Company TO: c/o Jean Molino, McKinsey & Company 55 East 52nd Street New York, NY 10055 YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case. PLACE OF TESTIMONY COURTROOM DATE AND TIME YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case. PLACE OF DEPOSITION DATE AND TIME X YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects); See Schedule A attached hereto PLACE DATE AND TIME Keating & Walker 1 Beekman Street, New York, NY 10038 August 7, 2006 YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below. PREMISES DATE AND TIME Any organization not a party to this suit that is subpoensed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6). ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF AFORNEY FOR PLAINTIFF OR DEFENDANT) DATE Attorney for Defendants June 21, 2006 ISSUING OFFICERS NAME, ADDRESS AND PHONE NUMBER. Jason C. Raofield Howrey, LLP 1299 Pennsylvania Ave., N.W., Washington, DC 20004 (202) 283-7267 (See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page) ¹ If action is pending in district other than district of issuance, state district under case number.

Document 172-7

AO88 (Rev. 1/94) Subpoena in a Civil Case

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LAIL	DATE PLACE						
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SERVED ON (PRINT NAME)	MANNER OF SERVICE						
SERVED BY (PRINT NAME)	TITLE						
DECLARATIO	N OF SERVER						
	ted States of America that the foregoing information contained						
in the Proof of Service is true and correct.							
Executed on	SIGNATURE OF SERVER						
DATE	SIGNAL DEB OF SERVER						
	ADDRESS OF SERVER						
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Rule 45, Federal Rules of Civil Procedure, Parts C & D:	party to travel to a place more then 100 miles from the place where that						
(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.	person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule,						
(i) A party or an altorney responsible for the issuance and service of a	such a person may in order to atlend trial be commanded to travel from any such place within the state in which the trial is held, or						
subpace shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpace. The court on behalf of	(iii) requires disclosure of privileged or other protected matter and no exception or walver applies, or						
which the subpens was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate senction which	(iV) subjects a person to undue burden.						
may include, but is not ilmited to, lost earnings and reasonable attorney's	(B) If a subpoene						
	(i) requires disclosure of a trade secret or other confidential						
(2) (A) A person commanded to produce and paintit inspection and copying of designated books, papers, documents or tangible things, or	research, development, or commercial information, or (ii) requires disclosure of an unratained experi=s opinion or						
inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, heading or tital.	Information not describing specific events or occurrences in dispute and resulting from the expert=s study made not at the request of any party, or						
(B) Subject to paragraph (d) (2) of this rule, a person commanded	(III) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend						
to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such	Utal, the court may, to protect a person subject to or affected by the subpoent, outshor modify the subpoent, or, if the party is who behalf the						
time is loss than 14 days after service, serve upon the party or attorney	subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue herdship and assures that the						
designated in the subposna written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is	person to whom the subpoene is addressed will be reasonably						
made, the party serving the subpoene shall not be entitled to inspect and copy meterials or inspect the premises except pursuant to an order of the	companiated, the court may order appearance or production only upon specified conditions.						
court by which the subpoene was issued. If objection has been made, the party serving the subpoene may, upon notice to the person commanded to	(d) DUTIES IN RESPONDING TO SUBPOENA.						
produce, move at any time for an order to compet the production. Such an order to comply production shall protect any person who is not a party or an	(1) A person responding to a subpoeina to produce documents shall						
officer of a party from significant expense resulting from the inspection and copying commanded.	produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.						
 (3) (A) On timely motion, the court by which e subpoens was issued 	 (2) When information subject to a subpoena is withhold on a claim that 						
(a) ψ of image motion, us could be write a subport was used of shall quash or modify the subport of it	it is privileged or subject to projection as that preparation materiate the						
(i) fails to allow reasonable time for compliance,	clear shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is unstant to produce the documents of the state of						
(ii) requires a person who is not e party or an officer of e	is sufficient to enable the demanding party to contast the claim.						

SCHEDULE A

DEFINITIONS

The following terms shall have the meanings set forth below whenever used in any discovery request.

 The term "AMD" means Advanced Micro Devices, Inc., and AMD International Sales & Service, Ltd., and any parent, subsidiary or affiliate entities, as well as the owners, partners, officers, directors, employees, agents, and other representatives of Advanced Micro Devices, Inc., and AMD International Sales & Service, Ltd.

2. The term "Intel" means Intel Corporation and Intel Kabushiki Kaisha and any parent, subsidiary or affiliate entities, as well as the owners, partners, officers, directors, employees, agents, and other representatives of Intel Corporation and Intel Kabushiki Kaisha.

 The term "McKinsey" means the global partnership McKinsey and Company and any affiliate entities, as well as the owners, employees, agents, and other representatives of McKinsey and Company.

4. The term "UMC" means United Microelectronics Corporation and any parent, subsidiary or affiliate entities, as well as the owners, partners, officers, directors, employees, agents, and other representatives of United Microelectronics Corporation.

5. The term "COMMUNICATION" means the transmittal of information and encompasses every medium of information transmittal, including, but not limited to, oral, written, graphic and electronic communication.

6. The term "DOCUMENT" is synonymous in meaning and equal in scope to the usage of the term in Fed. R. Civ. P. 34(a), including, without limitation, electronic or

computerized data compilations. A draft or non-identical copy constitutes a separate document within the meaning of the term.

INSTRUCTIONS

1. Documents to be produced include documents in your possession, custody, or control wherever located.

2. Unless otherwise specifically stated herein, the time period covered by each of these requests is from January 1, 2000 to the date this subpoena was issued.

 Documents must be produced as they are kept in the usual course of business, or must be organized and labeled to correspond to the document requests by number.

4. To the extent that you withhold from production any responsive document on the grounds of a claim of privilege or attorney work product, please provide the total number of responsive documents withheld from production. You are not required to provide at the time of production a privilege log or other description of the nature of any such documents. Intel expressly reserves its right to seek a privilege log at a later date.

DOCUMENT REQUESTS

1. All DOCUMENTS that reflect COMMUNICATIONS between AMD and McKinsey, including, but not limited to, all DOCUMENTS that reflect or concern any analyses, reports, studies, advice or recommendations relating to AMD, Intel, or competition in the microprocessor market.

2. All DOCUMENTS that reflect analyses, summaries, reports, studies, or other DOCUMENTS relating to AMD's strategy, performance, business plans, marketing, organization, or operations. 3. All DOCUMENTS that reflect analyses, summaries, reports, studies, communications or other DOCUMENTS relating to Intel's strategy, performance, business plans, marketing, organization, or operations.

 All DOCUMENTS that reflect analyses, summaries, reports, studies, or other writings relating to AMD regarding any restructuring plans, including, but not limited to, AMD's "Operational Flexibility" plan in 2002.

5. All DOCUMENTS that reflect analyses, summaries, reports, studies, or other writings relating to AMD joint ventures, partnerships, contracts or business alliances or other relationships relating to microprocessor manufacturing, including, but not limited to, a proposed joint venture or other relationship with UMC.

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EXHIBIT B

From: Balk, Heidi [mailto:hbalk@stroock.com] Sent: Monday, March 17, 2008 10:30 AM To: McDonough, Sarretta C. Subject: RE: AMD v. Intel -- McKinsey Document Production

Saretta,

In an effort to make this gathering of documents a bit less burdensome for Mckinsey and in an effort to assist you, I have compiled the following list that identifies the 15 relevant studies that McKinsey conducted for AMD, and the identified scope of each study:

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My hope is that upon review of this list, you can further narrow the requests, or more specifically identify them - i.e., tell us you are looking for x reports for studies 36, 39 and 31, as an example. I think we will then have an easier time gathering what you are looking for. Please call me with any questions.

-Heidi

-----Original Message-----From: McDonough, Sarretta C. [mailto:SMcDonough@gibsondunn.com} Sent: Friday, March 14, 2008 3:37 PM To: Balk, Heidi Subject: RE: AMD v. Intel -- McKinsey Document Production

I'd appreciate having the scope of work docs, that way we can help narrow our focus. If we could get those by next week, that would great.

----Original Message----From: Balk, Heidi [mailto:hbalk@stroock.com] Sent: Friday, March 14, 2008 12:34 PM To: McDonough, Sarretta C. Subject: RE: AMD v. Intel -- McKinsey Document Production

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sorry. i will push them.

-----Original Message-----From: McDonough, Sarretta C. [mailto:SMcDonough@gibsondunn.com] Sent: Thu 3/13/2008 6:11 PM To: Balk, Neidi Subject: RE: AMD v. Intel -- McKinsey Document Production

Heidi,

Any update -- we're starting to run up against depositions soon.

Thanks,

Sarretta

----Original Message-----From: Balk, Heidi [mailto:hbalk@stroock.com] Sent: Tuesday, March 04, 2008 3:48 AM To: McDonough, Sarretta C. Subject: RE: AMD v. Intel -- McKinsey Document Production

Saretta,

Just so you know -- I believe the partner who had worked on this left McKinsey since the initial production, so McKinsey is trying to figure out how to best get you the documents you have requested. I think thats been the source of the delay, but now they are working to get things together so hope to have some responses soon. Just so you know -- we arent ignoring you; its just taking longer than anticipated.

anyway, I hope to be in touch again shortly. -heidi

----Original Message-----From: McDonough, Sarretta C. [mailto:SMcDonough@gibsondunn.com] Sent: Wed 2/27/2008 3:19 PM To: Balk, Heidi Cc: Liversidge, Samuel G. Subject: RE: AMD v. Intel -- McKinsey Document Production

Hi Heidi,

Just checking in with you. Let me know if you've heard anything back from McKinsey.

Thanks!

Sarretta

----Original Message----From: Balk, Heidì [mailto:hbalk@stroock.com] Sent: Wednesday, February 13, 2008 5:55 PM To: McDonough, Sarretta C. Subject: RE: AMD v. Intel -- McKinsey Document Production

Saretta,

Sorry. I havent heard back yet, but I will surely follow up tomorrow. FYI, I am out of the office all of next week so hopefully I will be able to get back to you with some answers the following week.

Heidi

-----Original Message-----From: McDonough, Sarretta C. [mailto:SMcDonough@gibsondunn.com] Sent: Wed 2/13/2008 6:54 PM To: Balk, Heidi Subject: RE: AMD v. Intel -- McKinsey Document Production

Hi Heidi,

Thought I would just send a quick email to see where things stood. Let me know if you have an update for us.

Thanks

Sarretta

From: McDonough, Sarretta C. Sent: Monday, February 04, 2008 5:43 PM To: hbalk@stroock.com Subject: AMD v. Intel -- McKinsey Document Production

Heidi,

It was a pleasure speaking with you earlier today.

As promised, I have listed below the general and specific document issues raised during our call. I have also listed the McKinsey employees who likely have documents responsive to the subpoena that were not otherwise produced in McKinsey's initial production. The witness list is not exhaustive, but hopefully will aid your search. Please feel free to email or call me at 213-229-7227 if you have any questions or wish to discuss further the issues raised below.

Thank you again and best regards,

Sarretta Follow-up Issues

Most of the reports in McKinsey's production appear to be 1) drafts, preliminary or incomplete. See e.g., MCK-004283, MCK-004047, and MCK-004186. Please produce the final and all other versions of these reports, to the extent such documents exist. Several reports cite to interviews with or quote statements 2) from "senior executives" or "employees" of AMD. See, e.g., MCK-004047-55; MCK-004108. Please produce whatever documents, videotapes or recordings that discuss or reflect these interviews. 3) Please produce all internal communications within McKinsey related to any work conducted on behalf of AMD. Please produce all communications between McKinsey and AMD, 4) including retention letters/scope of work correspondence. A McKinsev powerpoint presentation at MCK-003753 includes a Please produce a copy of that video. See, e.g., MCK-003169-3177 <u>at 3172; M</u>CK-003523-3582 at 3551. Please produce any other documents relating to or the filing of litigation or complaints against Intel. It appears that McKinsey assisted AMD on projects "MAID," "Bambino," and "Robusto." However, there is only one short Please check on additional analyses for these two projects that may be missing from the production set. Please produce if these documents exist in McKinsey's files. McKinsey's production contains drafts and portions of See, e.g., MCK-000296. Please check on whether there were other initiatives and produce all documents related to such other initiatives. Per request number one above, we would also like the final version of the presentation on "Initiative No. 4." McKinsev's production set includes version 2.0 of the ee MCK-001647. No other versions appear in the production set. Please confirm that this is the only version that exists in McKinsey's files. McKinsey Witnesses Scott Allen Scott Arnold Walt Baker Nathan Brown Ashley Chaffin Antonio Capo Ross Davisson Mandeep Singh Dhillon David Ernst Hauke Hansen Stefan Heck Wen Hseih Brad Johnson Anil Kumar Peter Lee Lars Mellemseter Rakesh Motwani 4

Anthony Nichtawitz Paul Roche Richard Starling

Sarretta C. McDonough | Gibson, Dunn & Crutcher LLP

333 S. Grand Ave | Los Angeles, California 90071

T: 213.229.7227 | F: 213.229.6227 | smcdonough@gibsondunn.com <mailto: [smcdonough@gibsondunn.com>

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IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the IRS in Circular 230, we inform you that any tax advice contained in this communication (including any attachment that does not explicitly state otherwise) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

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"MMS <Gibsondunn.net>" made the following annotations.

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EXHIBIT C

GIBSON, DUNN & CRUTCHER LLP

LAWYERS

A REGISTERED LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORFORATIONS

333 South Grand Avenue Los Angeles, California 90071-3197

(213) 229-7000

www.gibsondunn.com

SMcDonough@gibsondunn.com

July 1, 2008

Direct Dial (213) 229-7227 Client No. T 42376-00764

Fax No. (213) 229-6227

VIA FACSIMILE

Christina J. Weis, Esq. Stroock & Stroock & Lavan LLP 180 Maiden Lane New York, NY 10038-4982

Re: AMD v. Intel: McKinsey Document Production

Dear Christina:

Thank you for following-up on the outstanding issues listed in my February 4, 2008 email to Heidi Balk. This letter serves to confirm our conversation last Thursday regarding McKinsey's answers to these pending items.

McKinsey confirms that no other current McKinsey employees worked on AMD matters other than those identified in my February 4, 2008 email. As for former employees, it is McKinsey's practice not to retain either hardcopies or electronic copies of documents belonging to former employees. McKinsey confirmed that it did not retain the hardcopy or electronic documents (including harddrives) of former employees not on the list but who otherwise worked on AMD matters.

McKinsey has searched for and was unable to locate the customer surveys cited as support in several McKinsey reports. McKinsey believes that the customer survey reports were either internal reports done by AMD or were not retained by AMD employees.

As to the **Mathematical Activity of the second Mathematical Activity** referenced at MCK-003753, McKinsey has asked all of its employees who may have information about the video and – based on their responses – has concluded that this reference served only as a placeholder and that no such video ever existed. You agreed to ask McKinsey to contact the third party companies it routinely works with on multimedia/videos to confirm that these vendor(s) have no

LOS ANGELES NEW YORK WASHINGTON, D.C. SAN FRANCISCO FALO ALTO LONDON PARIS MUNICH BRUSSELS DUBAI ORANGE COUNTY CENTURY CITY DALLAS DENVER

GIBSON, DUNN & CRUTCHER LLP

Christina J. Weis, Esq. July 1, 2008 Page 2

record of such a video or give us the names of these vendors so that we may follow-up with them directly.

As to "Initiative No. 4" at MCK-000296, McKinsey confirmed that it has no records of reports on "Initiatives" other than Initiative No. 4. Further, McKinsey believes that "Initiative No. 4" was AMD's terminology.

McKinsey confirms that it did not work on AMD's "Slingshot" initiative, and indeed, that it declined to work on this initiative because of potential legal concerns. ' · ː

Lastly, Stroock is in the process of reviewing the last set of materials from McKinsey and should have McKinsey's supplemental production completed within the next week or so.

Thanks again for your assistance. If any of the above is inaccurate, please let me know.

Best regards. Sarretta C. McDonough

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SCM/sap

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GIBSON, DUNN & CRUTCHER LLP A Registered Limited Liability Partnership Including Professional Corporations 333 South Grand Avenue Los Angeles, California 90071-3197

TELEPHONE: (213) 229-7000 FACSIMILE: (213) 229-7520

FACSIMILE TRANSMISSION INFORMATION

July 1, 2008

TO:	Mr./Ms.:	Christina J. Weis, Esq.						
	Company:	Stroock & Stroock & Lavan LLP New York, NY (212) 806-6006						
	City, State:							
	Facsimile No.:							
	Main Telephone:	(212) 806-5558						
FROM	Sarretta C. McDonor	gh	Room	LA-5347	Direct Dial:	(213) 229-7227		
	Our File Number:	Г 42376-00764	Fax:	(213) 229-6227	Email:	SMcDonough@gibsondunn.com		
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				Fax Operator	: Sally			

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