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7  
8 Attorneys for Third Party  
9 PHOENIX TECHNOLOGIES, LTD.

10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF DELAWARE

12 ADVANCED MICRO DEVICES, INC., and )  
13 AMD INTERNATIONAL SALES & SERVICES, )  
14 LTD., )

15 Plaintiffs,

16 vs.

17 INTEL CORPORATION AND INTEL )  
18 KABUSHIKI KAISHA, )

19 Defendants.

20 In Re: Intel Corp. Microprocessor Antitrust  
21 Litigation

Case No. 05-441-JJF, MDL 05-1717-JJF

**THIRD PARTY PHOENIX  
TECHNOLOGIES, LTD.'S RESPONSE TO  
ADVANCED MICRO DEVICES, INC.'S  
SUBPOENA FOR PRODUCTION  
DOCUMENTS**

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DISTRICT OF DELAWARE

22 Pursuant to Rules 34 and 45 of the Federal Rules of Civil Procedure, Third Party Phoenix  
23 Technologies Ltd. ("PHOENIX") responds to the subpoena and accompanying document requests  
24 propounded by the plaintiff Advanced Micro Devices, Inc. ("AMD" or "Plaintiff") as follows:

25 **GENERAL OBJECTIONS**

26 PHOENIX asserts the following General Objections to the subpoena as set forth below. In  
27 addition to these General Objections, PHOENIX also states specific objections to particular  
28 document requests where appropriate, including objections that may not be generally applicable to  
all document requests. By setting forth such specific objections, PHOENIX does not intend to

1 limit or restrict the General Objections. To the extent that PHOENIX responds to document  
2 requests to which it objects, such response shall not constitute a waiver of any General Objection  
3 or specific objections.

4 1. PHOENIX objects to each and every document request, definition and instruction,  
5 to the extent they seek to impose discovery obligations that differ from or exceed the obligations  
6 set forth in the Federal Rules of Civil Procedure.

7 2. PHOENIX objects to each and every document request which seeks the disclosure  
8 of information or the production of documents containing information protected by the attorney-  
9 client privilege, work product doctrine, or any other privilege or immunity. Such documents shall  
10 not be produced in response to the subpoena and in the event that any protected documents are  
11 produced by PHOENIX, such production would be inadvertent and does not constitute a waiver of  
12 any privilege, doctrine, immunity or other applicable protection.

13 3. PHOENIX objects to the time, manner and place demanded by Plaintiff for the  
14 production of documents. PHOENIX will produce documents, if at all, at a time and place to be  
15 mutually agreed upon.

16 4. PHOENIX objects to the subpoena to the extent it is seeking confidential,  
17 proprietary and trade secret information of PHOENIX, PHOENIX's customers, PHOENIX's  
18 suppliers, or other third parties with whom PHOENIX has or has had a business relationship. To  
19 the extent such information is responsive, it will be produced, if at all, with the appropriate  
20 confidentiality designation pursuant to an appropriate protective order, with the understanding and  
21 condition that no such information shall be used for any purpose outside this litigation.

22 5. PHOENIX objects to the subpoena and the document requests to the extent they  
23 seek documents which are in Plaintiff's possession or available from the other parties in this  
24 litigation, rather than PHOENIX, in that they subject PHOENIX to unreasonable and undue  
25 annoyance, oppression, harassment, burden and expense.

26 6. PHOENIX objects to the subpoena and the document request generally as overly  
27 broad, and as subjecting PHOENIX to unreasonable and undue annoyance, oppression,  
28 harassment, burden and expense.

1           7.       PHOENIX objects to the request for "all" documents or communications as overly  
2 broad, burdensome and oppressive, particularly when a production of less than "all" responsive  
3 documents or communications may adequately satisfy the document request.

4           8.       PHOENIX does not concede that any of the information sought or provided is  
5 relevant, material, admissible in evidence or reasonably calculated to lead to the discovery of  
6 admissible evidence.

7           9.       PHOENIX's statement that responsive document will be produced, if any, does not  
8 constitute a representation that such documents exist, but only that a reasonable search for such  
9 documents within PHOENIX's custody has been or will be made and that PHOENIX will produce  
10 responsive, non-privileged, non-objectionable documents, if any.

11          10.       PHOENIX reserves the right to product additional responsive documents, if any, if  
12 and when they are located or become available. PHOENIX hereby reserves its right to amend,  
13 supplement or alter its response accompanying such documents, if and as appropriate.

14  
15                   **RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

16           **REQUEST NO. 1:**

17           All DOCUMENTS constituting, reflecting, or discussing any analyses, summaries, reports,  
18 benchmarks, studies, or other writing prepared comparing COMPUTER SYSTEMS with INTEL  
19 and AMD MICROPROCESSORS, whether from a quality, performance, technical, functional, or  
20 other standpoint, in connection with products developed, distributed, advertised, promoted,  
21 marketed, and/or sold by COMPANY, or to be developed, distributed, advertised, promoted,  
22 marketed, and/or sold by COMPANY.

23           **RESPONSE TO REQUEST NO. 1:**

24           PHOENIX objects to the request as overly broad, oppressive and burdensome as to time  
25 and scope, and as causing unreasonable and undue annoyance, harassment, burden and expense.  
26 To the extent they exist, the records sought by this request can likely be obtained from Intel  
27 Corporation or AMD. PHOENIX further objects to the request to the extent it encompasses  
28 information which is confidential, proprietary and a trade secret of PHOENIX, its customers,

1 suppliers, or other third parties with whom PHOENIX has non-disclosure agreements. PHOENIX  
2 further objects to the extent it encompasses information protected by the attorney-client privilege  
3 or work product doctrine.

4  
5 **REQUEST NO. 2:**

6 All DOCUMENTS constituting, reflecting, or discussing any attempt or effort to design,  
7 develop, or implement any improvements, performance enhancements, or features, or any  
8 standard, specification, or protocol (including, but not limited to those relating to the Trusted  
9 Platform Module or other computer security measure), in any product optimized for use with  
10 COMPUTER SYSTEMS containing INTEL MICROPROCESSORS.

11 **RESPONSE TO REQUEST NO. 2:**

12 PHOENIX objects to the request as overly broad, oppressive and burdensome as to time  
13 and scope, and as causing unreasonable and undue annoyance, harassment, burden and expense.  
14 To the extent they exist, the records sought by this request can likely be obtained from Intel  
15 Corporation. PHOENIX further objects to the request to the extent it encompasses information  
16 which is confidential, proprietary and a trade secret of PHOENIX, its customers, suppliers, or other  
17 third parties with whom PHOENIX has non-disclosure agreements. PHOENIX further objects to  
18 the request as vague, ambiguous and unintelligible as to the term "Trusted Platform Module" and  
19 the phrase "other computer security measure." PHOENIX further objects to the extent it  
20 encompasses information protected by the attorney-client privilege or work product doctrine.

21  
22 **REQUEST NO. 3:**

23 All DOCUMENTS constituting, reflecting, or discussing any collaboration between  
24 COMPANY and INTEL to design, develop, or implement any improvements, performance  
25 enhancements, or features, or any standard, specifications, or protocol (including, but not limited  
26 to those relating to the Trusted Platform Module or other computer security measure), in any  
27 product optimized for use with COMPUTER SYSTEMS containing INTEL  
28 MICROPROCESSORS.

1 **RESPONSE TO REQUEST NO. 3:**

2 PHOENIX objects to the requests as overly broad, oppressive and burdensome as to time  
3 and scope, and as causing unreasonable and undue annoyance, harassment, burden and expense.  
4 To the extent they exist, the records sought by this request can likely be obtained from Intel  
5 Corporation. PHOENIX further objects to the request as vague, ambiguous and unintelligible as to  
6 the term "Trusted Platform Module" and the phrase "other computer security measure."  
7 PHOENIX further objects to the request to the extent it encompasses information which is  
8 confidential, proprietary and a trade secret of PHOENIX, its customers, suppliers, or other third  
9 parties with whom PHOENIX has non-disclosure agreements. PHOENIX further objects to the  
10 extent it encompasses information protected by the attorney-client privilege or work product  
11 doctrine.

12  
13  
14 **REQUEST NO. 4:**

15 All DOCUMENTS reflecting or discussing the restriction of any improvements,  
16 performance enhancements, or features, or any standard, specification, or protocol (including, but  
17 not limited to those relating to the Trusted Platform Module or other computer security measure),  
18 in any product optimized for use with COMPUTER SYSTEMS containing INTEL  
19 MICROPROCESSORS.

20 **RESPONSE TO REQUEST NO. 4:**

21 PHOENIX objects to the requests as overly broad, oppressive and burdensome as to time  
22 and scope, and as causing unreasonable and undue annoyance, harassment, burden and expense.  
23 To the extent they exist, the records sought by this request can likely be obtained from Intel  
24 Corporation. PHOENIX further objects to the request as vague, ambiguous and unintelligible as to  
25 the term "Trusted Platform Module" and the phrase "other computer security measure."  
26 PHOENIX further objects to the request to the extent it encompasses information which is  
27 confidential, proprietary and a trade secret of PHOENIX, its customers, suppliers, or other third  
28 parties with whom PHOENIX has non-disclosure agreements. PHOENIX further objects to the

1 extent it encompasses information protected by the attorney-client privilege or work product  
2 doctrine.

3  
4 **REQUEST NO. 5:**

5 All DOCUMENTS reflecting, discussing the actual or anticipated repercussions to  
6 COMPANY of restricting (or not restricting) any improvements, performance, enhancements, or  
7 features, or any standard, specification, or protocol (including, but not limited to those relating to  
8 the Trusted Platform Module or other computer security measure), in any product optimized for  
9 use with COMPUTER SYSTEMS containing INTEL MICROPROCESSORS.

10 **RESPONSE TO REQUEST NO. 5:**

11 PHOENIX objects to the requests as overly broad, oppressive and burdensome as to time  
12 and scope, and as causing unreasonable and undue annoyance, harassment, burden and expense.  
13 PHOENIX further objects to the request as vague, ambiguous and unintelligible as to the term  
14 "Trusted Platform Module" and the phrase "other computer security measure." PHOENIX further  
15 objects to the request to the extent it encompasses information which is confidential, proprietary  
16 and a trade secret of PHOENIX, its customers, suppliers, or other third parties with whom  
17 PHOENIX has non-disclosure agreements. PHOENIX further objects to the extent it encompasses  
18 information protected by the attorney-client privilege or work product doctrine.

19  
20 **REQUEST NO. 6:**

21 All DOCUMENTS constituting, reflecting, or discussing any agreements or understandings  
22 between COMPANY and INTEL concerning the design, development, implementation,  
23 distribution, advertisement, promotion, marketing, sale and/or use of any products suitable for use  
24 with COMPUTER SYSTEMS containing MICROPROCESSORS.

25 **RESPONSE TO REQUEST NO. 6:**

26 PHOENIX objects to the requests as overly broad, oppressive and burdensome as to time  
27 and scope, and as causing unreasonable and undue annoyance, harassment, burden and expense.  
28 To the extent they exist, the records sought by this request can likely be obtained from Intel

1 Corporation. PHOENIX further objects to the request to the extent it encompasses information  
2 which is confidential, proprietary and a trade secret of PHOENIX, its customers, suppliers, or other  
3 third parties with whom PHOENIX has non-disclosure agreements. PHOENIX further objects to  
4 the extent it encompasses information protected by the attorney-client privilege or work product  
5 doctrine.

6  
7 **REQUEST NO. 7:**

8 All DOCUMENTS constituting, reflecting, or discussing any agreements or understandings  
9 between COMPANY and INTEL that restrict or interfere with COMPANY's ability to collaborate  
10 with AMD to design, develop, implement, distribute, advertise, promote, market, sell, and/or use  
11 COMPANY'S software or any aspect of COMPANY's software.

12 **RESPONSE TO REQUEST NO. 7:**

13 PHOENIX objects to the requests as overly broad, oppressive and burdensome as to time  
14 and scope, and as causing unreasonable and undue annoyance, harassment, burden and expense.  
15 To the extent they exist, the records sought by this request can likely be obtained from Intel  
16 Corporation. PHOENIX further objects to the request to the extent it encompasses information  
17 which is confidential, proprietary and a trade secret of PHOENIX, its customers, suppliers, or other  
18 third parties with whom PHOENIX has non-disclosure agreements. PHOENIX further objects to  
19 the extent it encompasses information protected by the attorney-client privilege or work product  
20 doctrine.

21  
22 **REQUEST NO. 8:**

23 All DOCUMENTS constituting, reflecting, or discussing any FINANCIAL  
24 INDUCEMENT, non-financial inducement, non-cash benefit, perquisite, or other consideration  
25 offered by INTEL in connection with the design, development, implementation, manufacturing,  
26 distribution, advertisement, promotion, marketing, and/or sale of products.

27 **RESPONSE TO REQUEST NO. 8:**

28 PHOENIX objects to the requests as overly broad, oppressive and burdensome as to time

1 and scope, and as causing unreasonable and undue annoyance, harassment, burden and expense.  
2 To the extent they exist, the records sought by this request can likely be obtained from Intel  
3 Corporation. PHOENIX further objects to the request to the extent it encompasses information  
4 which is confidential, proprietary and a trade secret of PHOENIX, its customers, suppliers, or other  
5 third parties with whom PHOENIX has non-disclosure agreements. PHOENIX further objects to  
6 the extent it encompasses information protected by the attorney-client privilege or work product  
7 doctrine.

8  
9 **REQUEST NO. 9:**

10 All DOCUMENTS constituting, reflecting, or discussing any suggestion by INTEL that is  
11 will or might withdraw or withhold a FINANCIAL INDUCEMENT, non-financial inducement,  
12 non-cash benefit, perquisite, or other consideration or in any way penalize or punish COMPANY  
13 as a result of COMPANY's development, distribution, advertisement, promotion, marketing,  
14 and/or sale of products for use with or compatible with AMD MICROPROCESSORS.

15 **RESPONSE TO REQUEST NO. 9:**

16 PHOENIX objects to the requests as overly broad, oppressive and burdensome as to time  
17 and scope, and as causing unreasonable and undue annoyance, harassment, burden and expense.  
18 To the extent they exist, the records sought by this request can likely be obtained from Intel  
19 Corporation. PHOENIX further objects to the request to the extent it encompasses information  
20 which is confidential, proprietary and a trade secret of PHOENIX, its customers, suppliers, or other  
21 third parties with whom PHOENIX has non-disclosure agreements. PHOENIX further objects to  
22 the extent it encompasses information protected by the attorney-client privilege or work product  
23 doctrine.

24  
25 **REQUEST NO. 10:**

26 All DOCUMENTS constituting, reflecting, or discussing COMPANY's actual or perceived  
27 collaboration with, and/or support, advertisement, or promotion of, or any internal  
28 communications within COMPANY or external communications with AMD or INTEL concerning

1 COMPANY's actual or perceived collaboration with, and/or support, advertisement, or promotion  
2 of, AMD, AMD MICROPROCESSORS, COMPUTER SYSTEMS containing AMD  
3 MICROPROCESSORS, and/or any other AMD product (including but not limited to INTEL's  
4 reaction to, or opinion concerning the same).

5 **RESPONSE TO REQUEST NO. 10:**

6 PHOENIX objects to the requests as overly broad, oppressive and burdensome as to time  
7 and scope, and as causing unreasonable and undue annoyance, harassment, burden and expense.  
8 PHOENIX further objects to the request to the extent it encompasses information which is  
9 confidential, proprietary and a trade secret of PHOENIX, its customers, suppliers, or other third  
10 parties with whom PHOENIX has non-disclosure agreements. PHOENIX further objects to the  
11 extent it encompasses information protected by the attorney-client privilege or work product  
12 doctrine.

13  
14 **REQUEST NO. 11:**

15 All DOCUMENTS constituting, reflecting, or discussing COMPANY's participation or  
16 support of, or any internal communications within COMPANY or external communication with  
17 AMD or INTEL concerning COMPANY's participation or support of, AMD, AMD  
18 MICROPROCESSORS, COMPUTER SYSTEMS containing AMD MICROPROCESSORS,  
19 and/or any other AMD product at any trade show, product launch, conference, or industry meeting  
20 or in any press release, benchmark publication, website posting, or other promotional activity  
21 (including but not limited to INTEL's reaction to, or opinion concerning the same).

22 **RESPONSE TO REQUEST NO. 11:**

23 PHOENIX objects to the requests as overly broad, oppressive and burdensome as to time  
24 and scope, and as causing unreasonable and undue annoyance, harassment, burden and expense.  
25 To the extent they exist, the records sought by this request can likely be obtained from Intel  
26 Corporation or AMD. PHOENIX further objects to the request to the extent it encompasses  
27 information which is confidential, proprietary and a trade secret of PHOENIX, its customers,  
28 suppliers, or other third parties with whom PHOENIX has non-disclosure agreements. PHOENIX

1 further objects to the extent it encompasses information protected by the attorney-client privilege  
2 or work product doctrine.

3  
4 **REQUEST NO. 12:**

5 All DOCUMENTS constituting, reflecting, or discussing COMPANY's decision to adopt  
6 and/or support (or not adopt and/or support) AMD's or INTEL's 64-bit instruction set.

7 **RESPONSE TO REQUEST NO. 12:**

8 PHOENIX objects to the requests as overly broad, oppressive and burdensome as to time  
9 and scope, and as causing unreasonable and undue annoyance, harassment, burden and expense.  
10 To the extent they exist, the records sought by this request can likely be obtained from Intel  
11 Corporation or AMD. PHOENIX further objects to the request to the extent it encompasses  
12 information which is confidential, proprietary and a trade secret of PHOENIX, its customers,  
13 suppliers, or other third parties with whom PHOENIX has non-disclosure agreements. PHOENIX  
14 further objects to the extent it encompasses information protected by the attorney-client privilege  
15 or work product doctrine.

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17  
18 **REQUEST NO. 13:**

19 All DOCUMENTS constituting, reflecting, or discussing COMPANY's decision to  
20 develop, distribute, advertise, promote, market, and/or sell (or to not develop, distribute, advertise,  
21 promote, market, and/or sell) any products compatible with AMD's or INTEL's 64-bit instruction  
22 set.

23 **RESPONSE TO REQUEST NO. 13:**

24 PHOENIX objects to the requests as overly broad, oppressive and burdensome as to time  
25 and scope, and as causing unreasonable and undue annoyance, harassment, burden and expense.  
26 PHOENIX further objects to the request to the extent it encompasses information which is  
27 confidential, proprietary and a trade secret of PHOENIX, its customers, suppliers, or other third  
28 parties with whom PHOENIX has non-disclosure agreements. PHOENIX further objects to the

1 extent it encompasses information protected by the attorney-client privilege or work product  
2 doctrine.

3

4 **REQUEST NO. 14:**

5 All DOCUMENTS constituting, reflecting, or discussing COMPANY's schedule (or  
6 changes to COMPANY's schedule) for releasing any products compatible with AMD's or  
7 INTEL's 64-bit instruction set.

8 **RESPONSE TO REQUEST NO. 14:**

9 PHOENIX objects to the requests as overly broad, oppressive and burdensome as to time  
10 and scope, and as causing unreasonable and undue annoyance, harassment, burden and expense.  
11 PHOENIX further objects to the request to the extent it encompasses information which is  
12 confidential, proprietary and a trade secret of PHOENIX, its customers, suppliers, or other third  
13 parties with whom PHOENIX has non-disclosure agreements. PHOENIX further objects to the  
14 extent it encompasses information protected by the attorney-client privilege or work product  
15 doctrine.

16

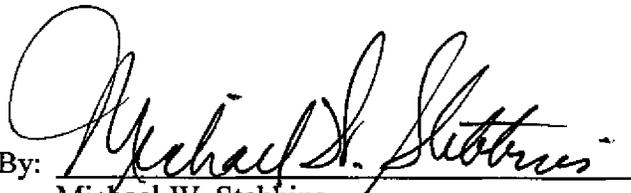
17 Dated: July 7, 2006

TERRA LAW LLP

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By:   
Michael W. Stebbins  
Attorneys for Third Party  
PHOENIX TECHNOLOGIES LTD.

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1 PROOF OF SERVICE

2 I am a citizen of the United States and employed in the county aforesaid; I am over the age  
3 of eighteen years, and not a party to the within action; my business address is 60 South Market  
4 Street, Suite 200, San Jose, California 95113. On the date set forth below I caused to be served the  
5 documents described below:

6 **THIRD PARTY PHOENIX TECHNOLOGIES, LTD.'S RESPONSE TO ADVANCED  
7 MICRO DEVICES, INC.'S SUBPOENA FOR PRODUCTION OF DOCUMENTS**

8 on the following person(s) in this action by placing a true copy thereof enclosed in a sealed  
9 envelope addressed as follows:

10 Linda J. Smith  
11 O'Melveny & Myers LLP  
12 1999 Avenue of the Stars, Suite 700  
13 Los Angeles, CA 90067  
14 Tel. (310) 553-6700  
15 Fax (310) 246-6779

- 16  (BY U.S. MAIL) I caused such envelope(s) with postage thereon fully prepaid to be  
17 placed in the United States mail at San Jose, California.
- 18  (BY PERSONAL SERVICE) I caused such envelope(s) to be delivered by hand this date  
19 to the offices of the addressee(s).
- 20  (BY FACSIMILE) I caused such document(s) to be transmitted by facsimile on this date  
21 to each facsimile machine number listed above.
- 22  (BY FEDERAL EXPRESS) I caused such envelope(s) with postage thereon fully  
23 prepaid to be placed in the Federal Express office at San Jose, California.
- 24  (STATE) I declare under penalty of perjury under the laws of the State of California that  
25 the foregoing is true and correct.
- 26  (FEDERAL) I declare that I am employed in the office of a member of the bar of this  
27 court at whose direction the service was made.

28 Executed on July 7, 2006, at San Jose, California.

  
Joanna Giacalone