

**In The Matter Of:**

*Advanced Micro Devices v.  
Intel*

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*Teleconference  
July 14, 2008*

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Corbett & Wilcox

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*Original File Teleconference - Vol. I.txt*

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ADVANCED MICRO DEVICES, )  
 )  
Plaintiffs, ) Civil Action No.  
 ) 05-441-JJF  
v. )  
 )  
INTEL CORPORATION, )  
 )  
Defendant. )

Teleconference in above matter taken pursuant to notice before Renee A. Meyers, Registered Professional Reporter and Notary Public, in the offices of Blank Rome, LLP, 1201 North Market Street, Wilmington, Delaware, on Monday, July 14, 2008, beginning at approximately 4:30 p.m., there being present:

BEFORE:

THE HONORABLE VINCENT J. POPPITI, SPECIAL MASTER

APPEARANCES:

O'MELVENY & MYERS  
CHARLES DIAMOND, ESQ.  
1999 Avenue of the Stars  
Los Angeles, California 90067  
for AMD

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## 1 APPEARANCES (Continued):

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6 for AMD

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22 PRICKETT, JONES & ELLIOTT  
23 J. CLAYTON ATHEY, ESQ.  
24 1310 King Street  
Wilmington, DE 19801  
for Que Choisir

COHEN, MILSTEIN, HAUSFELD & TOLL, P.L.L.C.  
JOHN KING, ESQ.  
1100 New York Avenue, N.W  
Suite 500, West Tower  
Washington, D.C. 20005  
for Que Choisir

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1 SPECIAL MASTER POPPITI: Let's, then,  
2 start with Que Choiser.

3 MR. ATHEY: Good afternoon, Your Honor.  
4 Clayton Athey of Prickett, Jones & Elliott for Que  
5 Choisir.

6 SPECIAL MASTER POPPITI: Thank you,  
7 Mr. Athey.

8 Anyone else joining you, sir?

9 MR. KING: John King from Cohen,  
10 Milstein also from Que Choisir.

11 SPECIAL MASTER POPPITI: Thank you.  
12 And from Intel, please.

13 MR. DRANE: Good afternoon, Judge  
14 Poppiti. This is Harding Drane at Potter Anderson &  
15 Corroon for Intel.

16 And with me on the phone is my  
17 co-counsel, Michael L. Denger, from Gibson, Dunn &  
18 Crutcher.

19 MR. DENGER: Good afternoon, Your Honor.

20 SPECIAL MASTER POPPITI: Good afternoon  
21 to the both of you.

22 MR. PICKETT: This is Don Pickett also  
23 for Intel.

24 SPECIAL MASTER POPPITI: Thank you, sir.

## Teleconference

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1                   And any other parties joining us for  
2 this teleconference?

3                   MR. COTTRELL: Your Honor, in  
4 Wilmington, for AMD, Fred Cottrell, and I believe  
5 Mr. Diamond may be on the phone as well.

6                   SPECIAL MASTER POPPITI: Thank you,  
7 Mr. Cottrell.

8                   MR. DIAMOND: I am, indeed. Good  
9 afternoon, Your Honor.

10                  SPECIAL MASTER POPPITI: Thank you,  
11 Mr. Diamond. Good afternoon.

12                  Anyone else on the call, then, please?  
13 Okay. The purpose of the call is to accomplish two  
14 things. No. 1, to land on a date for determination of  
15 Que Choisir's applications and argument and with respect  
16 to that, and, No. 2, to discuss whether third parties  
17 that want to participate, we will, first of all, explore  
18 that to see if you are aware of any third parties that  
19 want to participate and determine how that path should be  
20 opened, if it should be opened.

21                  So, I am up for discussion as to both.  
22 And I think I understand that everyone is poised to look  
23 at the week of September 8th; is that correct? If I  
24 understood e-mails back in the early part of, or July 8th

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1 from Mr. Drane, actually, there was e-mail from Mr. Drane  
2 to Mary LeVan on July 8th suggesting that the week of  
3 September 8th was one that no one could be available  
4 until that week from Intel.

5 MR. KING: Your Honor, it's John King  
6 for Que Choisir. And I actually had had it that we had  
7 arrived at a date and time, I may have this wrong, but of  
8 Tuesday, September 9th. And we had -- there was an  
9 initial date set, I believe, of August 21st, and that was  
10 bad for Que Choisir's end, so I don't know if anybody  
11 else believes differently on the call, but that was the  
12 time and date that -- that certainly works for me and I  
13 think others may have agreed upon it, too.

14 MR. DENGGER: This is Mike Denger from  
15 Gibson, Dunn for Intel. That also was our understanding.

16 SPECIAL MASTER POPPITI: I apologize.  
17 That date is not on my calendar, but it certainly works.  
18 Let me just make sure. It does work for me. Did we  
19 assign a time to that date yet?

20 MR. DENGGER: I believe, Your Honor, you  
21 assigned the time of 1:00 p.m.

22 SPECIAL MASTER POPPITI: There we go.  
23 Then it will be September 9th at 1:00 p.m.

24 MR. DRANE: Your Honor, I think in that

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1 same e-mail, which was from Mary, it says that that  
2 hearing would be at the courthouse.

3 SPECIAL MASTER POPPITI: Okay. Then  
4 everyone is further along than the information on my  
5 computer. So that's good.

6 Then let's talk about the other issue,  
7 and that is participation by third parties.

8 MR. KING: Your Honor, it's John King  
9 for Que Choisir. I think we might be able to hopefully  
10 short circuit that one as well in terms of Que Choisir  
11 has no problem with whatever third parties would like to  
12 participate and present. In particular, I suppose the  
13 ones that filed either oppositions or joinders and other  
14 oppositions and we certainly would not oppose them coming  
15 to present and certainly at least getting notice of the  
16 hearing.

17 And the only caveat would be, I suppose,  
18 if we could encourage them, if they can, to coordinate on  
19 the issues, as I suspect they would anyway, to try to  
20 limit any duplicative presentations, you know, that would  
21 be optimal. But I guess the only question is with  
22 respect to the third parties that did not file any  
23 oppositions or joinders, should they all get notice as  
24 well and Que Choisir is fine either way.

1           If we want to use the same mailing list  
2 that Intel did to mail out notice of the pendency of Que  
3 Choisir's motion, we can just do a blanket notice, but  
4 whatever Your Honor is comfortable with.

5           MR. DENGER: Michael Denger for Intel  
6 from Gibson, Dunn.

7           We, too, are comfortable either way in  
8 terms of providing notice to the third parties. These  
9 are to all third parties augmented by notice to the  
10 counsel for those parties, third parties who actually did  
11 file papers with the Court. And we, too, would have no  
12 problem with third parties being heard at the argument on  
13 this motion.

14           We would think, perhaps as an incentive  
15 to coordinate their presentations, one approach The Court  
16 might want to consider would be to set a given amount of  
17 time for argument by third parties and then let them work  
18 out among each other how they could most efficiently  
19 allocate it were they to want to present oral argument.

20           SPECIAL MASTER POPPITI: That's an  
21 excellent suggestion. And I think the way, then, we  
22 should approach this is with respect to the notice to  
23 third parties, I would expect that you all could, or  
24 should, meet and confer about what that notice should say



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1 in addition to advising of the date, time, and place of  
2 the hearing.

3 It seems to me it should indicate that  
4 those parties that have responded and that are  
5 represented by local counsel would have the opportunity  
6 to make comment.

7 I don't know whether you want to permit,  
8 whether you have, and I think I heard Que Choisir said  
9 they had no problem with someone that wanted to offer  
10 argument that did not file should also be permitted to do  
11 that. I am not sure that that makes sense, but I am  
12 happy to hear you, to hear everyone out with respect to  
13 that.

14 MR. KING: Your Honor, it's John. I may  
15 have misspoke. I guess I was thinking more in terms of  
16 they would get notice of the proceeding. As far as  
17 whether they would present, that does make sense that  
18 they should not present if they have not already filed  
19 some papers with the Court.

20 But I don't have an extremely strong  
21 feeling either way, sort of airing on the side of  
22 inclusiveness, so we are fine scaling it back as well. I  
23 suppose with some time limitations anyway, since we are  
24 starting at 1:00, that it would make sense to try to

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1 limit those third parties that can present there.

2 SPECIAL MASTER POPPITI: Any comments on  
3 the opportunity for those that did not file, permitting  
4 them to make comment or coordinating their comment  
5 through another third-party that did?

6 Does Intel have any comment?

7 MR. DENGER: Mike Denger for Intel, Your  
8 Honor. We do not feel strongly on this. I would think  
9 that if we provide notice to everyone again and tell them  
10 there is going to be an opportunity for third parties who  
11 did file comments to participate in the oral argument,  
12 then if there is anyone else out there who did not file  
13 comments but still wishes to be heard, they would have  
14 notice at least and could raise the issue with Your Honor  
15 were they to want to be heard orally.

16 SPECIAL MASTER POPPITI: I don't want to  
17 make any -- I certainly don't want to make a mountain out  
18 of anything. If there is no dispute that those that have  
19 not filed should also have an opportunity to be heard in  
20 the interest of inclusion, then I am not going to have a  
21 problem with that so long as the comments are  
22 coordinated. And I do agree that the best way to do that  
23 is to suggest a specific amount of time for third parties  
24 to offer comment.

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1 I don't know whether you want to discuss  
2 that now, whether you want to confer about it? I am not  
3 going to have any problem with any number that you land  
4 on in terms of a time frame.

5 MR. KING: Your Honor, it's John. In  
6 view of the fact that we will be starting at 1:00, do we  
7 have an idea of how much total time Your Honor will  
8 allocate for this hearing?

9 SPECIAL MASTER POPPITI: Well, I don't  
10 want to cut you all short. You are all going to be  
11 traveling to make the effort to do the argument, so let  
12 me hear from you first in terms of how long you think you  
13 would like to take for argument and then I will tell you  
14 whether that makes sense to me.

15 MR. KING: Well, I think by the time  
16 Your Honor receives all the papers, I think these issues  
17 will be pretty substantially and heavily briefed, so my  
18 intention was I can't see me needing to make a  
19 presentation of more than, say, 15 minutes to a half  
20 hour. In particular, if Your Honor has questions, I'd  
21 rather address those at the hearing than, you know,  
22 repeat everything we have written, so I don't --

23 SPECIAL MASTER POPPITI: I agree with  
24 that.

1 MR. KING: I don't initially see the  
2 need for a whole lot of time from our side.

3 MR. DENGER: I think we are in the same  
4 position in terms of an affirmative statement of our  
5 position, that we, obviously, have not seen Que Choisir's  
6 reply papers, but somewhere in the neighborhood of 15 to  
7 30 minutes and then time to respond to any questions the  
8 Court has.

9 SPECIAL MASTER POPPITI: Well, those  
10 time frames make sense, so how would you propose wedging  
11 in third parties?

12 MR. DENGER: Well, I would think, you  
13 know, if we urge them to coordinate their comments in one  
14 or two spokespersons, that one could allocate maybe 15 to  
15 30 minutes to the third parties. Maybe a little more  
16 if --

17 SPECIAL MASTER POPPITI: If there is  
18 several, you may want to allocate a little more.

19 MR. DENGER: But they, in essence, were  
20 making pretty much the same arguments.

21 SPECIAL MASTER POPPITI: That's correct.  
22 I would expect that they would based on even the reading  
23 that I have done up to this point that I have in front of  
24 me.

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1           Well, then, let's do this: I think the  
2 time frames that you are proposing, I think they make  
3 sense, and I think that the notice that goes to the third  
4 parties should reflect exactly what you propose for the  
5 parties' submittals. I am going to stretch it a bit only  
6 because they may elect to use more than one spokesperson.  
7 If they can be encouraged to use one, that's so much the  
8 better.

9           What I expect would make sense is if you  
10 arrange for some meet and confer within the next few  
11 days, at least to make the arrangement with them within  
12 the next few days and get the notice out. If the notice  
13 is agreeable to everyone, it's something certainly that I  
14 don't need to approve.

15           If there is some dispute with respect to  
16 the notice, and I expect you are going to want me to see  
17 it, if that's the case, it either has to be something  
18 that I review not later than the 18th -- actually, there  
19 is no -- I am not concerned. As long as it gets out by  
20 the 25th of July, I have more than sufficient time for  
21 third parties to make their arrangements if they haven't  
22 already done that with local counsel and to make whatever  
23 travel plans they choose to make.

24           MR. DENGER: May I make a suggestion,

1 Your Honor? That we could facilitate the third parties  
2 coordinate among themselves, rather than having them go  
3 to all the Docket entries, that we put sort of an  
4 appendix at the end just listing the third-party counsels  
5 and their contact information?

6 SPECIAL MASTER POPPITI: Great idea.  
7 That's a good idea.

8 And I did say the 25th. Let's do the  
9 28th, not later than the 28th, either have a notice  
10 that's ready to go or notice that is something that you  
11 are going to want me to see because there is some  
12 dispute.

13 MR. DENGGER: I would think that we  
14 hopefully would be able to get something out by the end  
15 of this week.

16 SPECIAL MASTER POPPITI: I would think  
17 you could as well. I would encourage that. If you want  
18 me to land on the 18th, I am happy to do that. Does  
19 anyone object to the 18th?

20 MR. KING: No, Your Honor, no.

21 SPECIAL MASTER POPPITI: Let's do, for  
22 purposes of my review, if there is a dispute, I'd like to  
23 see it not later than noon on Friday, and if there isn't  
24 a dispute, not later than the end of business on Friday.

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1 MR. KING: In terms of the time to maybe  
2 shortcut what we will say in there, it sounds like both  
3 Que Choisir and Intel, we could say we will have up to a  
4 half hour, and then for the third parties, should we say  
5 45 minutes in total, something like that?

6 SPECIAL MASTER POPPITI: I think  
7 45 minutes makes sense.

8 MR. KING: Okay. And clearly, I would  
9 presume that won't foreclose anyone if Your Honor has  
10 numerous questions for one side or the other from third  
11 parties, I think we can all adapt, but these guidelines  
12 seem like they will work for everybody.

13 SPECIAL MASTER POPPITI: The time frames  
14 are really for your, so I will permit you the  
15 opportunity, if you are going to be standing and making  
16 argument, I certainly would expect that that time will be  
17 -- I will spend some more time with you questioning.

18 MR. KING: Okay.

19 SPECIAL MASTER POPPITI: The only other  
20 question that I have with respect to the argument, I am  
21 mindful of the fact that in -- give me one moment -- in  
22 Intel's submittal, I am actually in the process of  
23 reading the view of several of what I would refer to as  
24 expert declarations, and I don't know whether you

1 anticipate that any of the persons that have offered  
2 declarations are going to be there for purposes of  
3 responding to any questions that I may have or whether  
4 counsel is going to be in a position to respond to  
5 questions that may relate to some of the statements or  
6 assertions made in the declarations.

7 For example, I am in the process of John  
8 Pierre Farge, am I saying that correctly?

9 MR. DENGER: Farge, F-a-r-g-e.

10 Your Honor, again, this is Michael  
11 Denger for Intel, and I realize this is a little unusual,  
12 but we have four declarants located in Europe. I wonder  
13 if it would be possible or if it would facilitate  
14 anything if Your Honor did have any declarations -- or  
15 any question of a technical nature for these declarants,  
16 rather than bring all four over, there are some  
17 possibilities of potentially, if we were to have some  
18 idea of the questions beforehand, we might be able to get  
19 answers were they not answerable by counsel.

20 Alternatively, I guess, there may be  
21 ways to hook up the declarants by telephone if the Court  
22 has facilities so that the Court could put questions to  
23 them.

24 Again, I think it would be helpful if we



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1 were to know in advance at least which declarants the  
2 Court may have questions for so we could make logistical  
3 arrangements.

4 SPECIAL MASTER POPPITI: I can do that  
5 and I will be in a better position to give you a date  
6 certain when you can expect to see something from me as  
7 soon as I get through the material that I have received  
8 so far and I have Que Choisir's closing paper.

9 MR. KING: It's John for Que Choisir. I  
10 would be remiss if I didn't mention something which I  
11 have mentioned to Intel just in a semi meet and confer  
12 type process, but we are, Que Choisir would be able to  
13 now, in its reply brief, be more specific on several  
14 issues.

15 SPECIAL MASTER POPPITI: Okay.

16 MR. KING: And I think that will impact  
17 the need to deal with those particular declarants, for  
18 starters. So I would suggest we may want to have this  
19 type of discussion, maybe another impromptu hearing like  
20 this, once we have filed our reply.

21 SPECIAL MASTER POPPITI: That makes  
22 sense.

23 MR. KING: And what we did was invite,  
24 we think it will be appropriate for Intel to most likely

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1 submit a further written submission, and they, having not  
2 seen our reply, so they didn't know of any need at the  
3 moment, but if they did, they would not oppose us  
4 submitting a possible supplemental reply.

5 And I think once -- however Your Honor  
6 decides on that, whether that's permissible or not, I  
7 think once our position is out there in writing, which it  
8 will be as of Wednesday, we will have a better idea of  
9 what issues are in play, and what, if any, declarants are  
10 needed.

11 So I just wanted to mention that now  
12 because I don't think that the focus will be much on  
13 those particular declarants.

14 I just wanted to mention it before  
15 people start making travel arrangements and that sort of  
16 thing. But on Wednesday, this will be a little more  
17 clear.

18 SPECIAL MASTER POPPITI: I appreciate  
19 that from Intel's perspective.

20 So, let's hold, then, until that is  
21 filed and that's coming in on the 23rd?

22 MR. KING: That is -- well, Que  
23 Choisir's reply is due this Wednesday, the 16th, a couple  
24 days.

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1 SPECIAL MASTER POPPITI: Okay.

2 Is there anything else, then, please?

3 Thank you all very much.

4 MR. PICKETT: John Pickett. There is  
5 some confusion, I think, as to the hearing date for  
6 another matter, which, obviously, you didn't intend to  
7 deal with right now, but I do want to raise to you and  
8 your staff, there was a hearing that was -- this is on a  
9 motion from AMD to quash a subpoena and a motion to  
10 compel the subpoena corresponding from Intel. That has  
11 been set for August 21st along with this matter.

12 SPECIAL MASTER POPPITI: Right.

13 MR. PICKETT: And, to my knowledge, that  
14 has not been set for a hearing. It is a hearing at which  
15 I think the attorneys want to attend in person.

16 SPECIAL MASTER POPPITI: And it has not  
17 yet been set, counsel, and the reason for that is I am  
18 trying to coordinate a hearing date with Eric Friedberg  
19 and with his schedule.

20 MR. PICKETT: Thank you. I just wanted  
21 to make sure it's on the radar.

22 SPECIAL MASTER POPPITI: It's on the  
23 radar. We just had a conversation with him a little over a  
24 couple hours ago, and as soon as I have a handle on his

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1 schedule, then I will be back checking dates with  
2 everyone.

3 MR. PICKETT: Thanks very much.

4 SPECIAL MASTER POPPITI: Thank you all  
5 very much.

6 (The hearing was concluded at 4:53 p.m.)

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C E R T I F I C A T E

STATE OF DELAWARE:

NEW CASTLE COUNTY:

I, Renee A. Meyers, a Registered Professional Reporter, within and for the County and State aforesaid, do hereby certify that the foregoing teleconference was taken before me, pursuant to notice, at the time and place indicated; that the teleconference was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the foregoing teleconference is a true record; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.

WITNESS my hand this 14th day of July A.D.

2008.

RENEE A. MEYERS  
REGISTERED PROFESSIONAL REPORTER  
CERTIFICATION NO. 106-RPR  
(Expires January 31, 2011)

**In The Matter Of:**

*Advanced Micro Devices v.  
Intel*

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*Teleconference  
July 14, 2008*

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2 FOR THE DISTRICT OF DELAWARE  
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4 ADVANCED MICRO DEVICES, )  
5 Plaintiffs, ) Civil Action No.  
6 v. ) 05-441-JJF  
7 INTEL CORPORATION, )  
8 Defendant. )

9 Teleconference in above matter taken pursuant  
10 to notice before Renee A. Meyers, Registered Professional  
11 Reporter and Notary Public, in the offices of Blank Rome,  
12 LLP, 1201 North Market Street, Wilmington, Delaware, on  
13 Monday, July 14, 2008, beginning at approximately 4:30  
14 p.m., there being present:

15 BEFORE:  
16 THE HONORABLE VINCENT J. POPPITI, SPECIAL MASTER

17 APPEARANCES:  
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1 SPECIAL MASTER POPPITI: Let's, then,  
2 start with Que Choiser.  
3 MR. ATHEY: Good afternoon, Your Honor.  
4 Clayton Athey of Prickett, Jones & Elliott for Que  
5 Choisir.  
6 SPECIAL MASTER POPPITI: Thank you,  
7 Mr. Athey.  
8 Anyone else joining you, sir?  
9 MR. KING: John King from Cohen,  
10 Milstein also from Que Choisir.  
11 SPECIAL MASTER POPPITI: Thank you.  
12 And from Intel, please.  
13 MR. DRANE: Good afternoon, Judge  
14 Poppiti. This is Harding Drane at Potter Anderson &  
15 Corroon for Intel.  
16 And with me on the phone is my  
17 co-counsel, Michael L. Denger, from Gibson, Dunn &  
18 Crutcher.  
19 MR. DENER: Good afternoon, Your Honor.  
20 SPECIAL MASTER POPPITI: Good afternoon  
21 to the both of you.  
22 MR. PICKETT: This is Don Pickett also  
23 for Intel.  
24 SPECIAL MASTER POPPITI: Thank you, sir.

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32 for Que Choisir

1 And any other parties joining us for  
2 this teleconference?  
3 MR. COTTRELL: Your Honor, in  
4 Wilmington, for AMD, Fred Cottrell, and I believe  
5 Mr. Diamond may be on the phone as well.  
6 SPECIAL MASTER POPPITI: Thank you,  
7 Mr. Cottrell.  
8 MR. DIAMOND: I am, indeed. Good  
9 afternoon, Your Honor.  
10 SPECIAL MASTER POPPITI: Thank you,  
11 Mr. Diamond. Good afternoon.  
12 Anyone else on the call, then, please?  
13 Okay. The purpose of the call is to accomplish two  
14 things. No. 1, to land on a date for determination of  
15 Que Choisir's applications and argument and with respect  
16 to that, and, No. 2, to discuss whether third parties  
17 that want to participate, we will, first of all, explore  
18 that to see if you are aware of any third parties that  
19 want to participate and determine how that path should be  
20 opened, if it should be opened.  
21 So, I am up for discussion as to both.  
22 And I think I understand that everyone is poised to look  
23 at the week of September 8th; is that correct? If I  
24 understood e-mails back in the early part of, or July 8th

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1 from Mr. Drane, actually, there was e-mail from Mr. Drane  
2 to Mary LeVan on July 8th suggesting that the week of  
3 September 8th was one that no one could be available  
4 until that week from Intel.  
5 **MR. KING:** Your Honor, it's John King  
6 for Que Choisir. And I actually had had it that we had  
7 arrived at a date and time, I may have this wrong, but of  
8 Tuesday, September 9th. And we had -- there was an  
9 initial date set, I believe, of August 21st, and that was  
10 bad for Que Choisir's end, so I don't know if anybody  
11 else believes differently on the call, but that was the  
12 time and date that -- that certainly works for me and I  
13 think others may have agreed upon it, too.  
14 **MR. DENGER:** This is Mike Denger from  
15 Gibson, Dunn for Intel. That also was our understanding.  
16 **SPECIAL MASTER POPPITI:** I apologize.  
17 That date is not on my calendar, but it certainly works.  
18 Let me just make sure. It does work for me. Did we  
19 assign a time to that date yet?  
20 **MR. DENGER:** I believe, Your Honor, you  
21 assigned the time of 1:00 p.m.  
22 **SPECIAL MASTER POPPITI:** There we go.  
23 Then it will be September 9th at 1:00 p.m.  
24 **MR. DRANE:** Your Honor, I think in that

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1 same e-mail, which was from Mary, it says that that  
2 hearing would be at the courthouse.  
3 **SPECIAL MASTER POPPITI:** Okay. Then  
4 everyone is further along than the information on my  
5 computer. So that's good.  
6 Then let's talk about the other issue,  
7 and that is participation by third parties.  
8 **MR. KING:** Your Honor, it's John King  
9 for Que Choisir. I think we might be able to hopefully  
10 short circuit that one as well in terms of Que Choisir  
11 has no problem with whatever third parties would like to  
12 participate and present. In particular, I suppose the  
13 ones that filed either oppositions or joinders and other  
14 oppositions and we certainly would not oppose them coming  
15 to present and certainly at least getting notice of the  
16 hearing.  
17 And the only caveat would be, I suppose,  
18 if we could encourage them, if they can, to coordinate on  
19 the issues, as I suspect they would anyway, to try to  
20 limit any duplicative presentations, you know, that would  
21 be optimal. But I guess the only question is with  
22 respect to the third parties that did not file any  
23 oppositions or joinders, should they all get notice as  
24 well and Que Choisir is fine either way.

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1 If we want to use the same mailing list  
2 that Intel did to mail out notice of the pendency of Que  
3 Choisir's motion, we can just do a blanket notice, but  
4 whatever Your Honor is comfortable with.  
5 **MR. DENGER:** Michael Denger for Intel  
6 from Gibson, Dunn.  
7 We, too, are comfortable either way in  
8 terms of providing notice to the third parties. These  
9 are to all third parties augmented by notice to the  
10 counsel for those parties, third parties who actually did  
11 file papers with the Court. And we, too, would have no  
12 problem with third parties being heard at the argument on  
13 this motion.  
14 We would think, perhaps as an incentive  
15 to coordinate their presentations, one approach The Court  
16 might want to consider would be to set a given amount of  
17 time for argument by third parties and then let them work  
18 out among each other how they could most efficiently  
19 allocate it were they to want to present oral argument.  
20 **SPECIAL MASTER POPPITI:** That's an  
21 excellent suggestion. And I think the way, then, we  
22 should approach this is with respect to the notice to  
23 third parties, I would expect that you all could, or  
24 should, meet and confer about what that notice should say

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1 in addition to advising of the date, time, and place of  
2 the hearing.  
3 It seems to me it should indicate that  
4 those parties that have responded and that are  
5 represented by local counsel would have the opportunity  
6 to make comment.  
7 I don't know whether you want to permit,  
8 whether you have, and I think I heard Que Choisir said  
9 they had no problem with someone that wanted to offer  
10 argument that did not file should also be permitted to do  
11 that. I am not sure that that makes sense, but I am  
12 happy to hear you, to hear everyone out with respect to  
13 that.  
14 **MR. KING:** Your Honor, it's John. I may  
15 have misspoke. I guess I was thinking more in terms of  
16 they would get notice of the proceeding. As far as  
17 whether they would present, that does make sense that  
18 they should not present if they have not already filed  
19 some papers with the Court.  
20 But I don't have an extremely strong  
21 feeling either way, sort of airing on the side of  
22 inclusiveness, so we are fine scaling it back as well. I  
23 suppose with some time limitations anyway, since we are  
24 starting at 1:00, that it would make sense to try to



1 limit those third parties that can present there.  
2 **SPECIAL MASTER POPPITI:** Any comments on  
3 the opportunity for those that did not file, permitting  
4 them to make comment or coordinating their comment  
5 through another third-party that did?  
6 Does Intel have any comment?  
7 **MR. DENGER:** Mike Denger for Intel, Your  
8 Honor. We do not feel strongly on this. I would think  
9 that if we provide notice to everyone again and tell them  
10 there is going to be an opportunity for third parties who  
11 did file comments to participate in the oral argument,  
12 then if there is anyone else out there who did not file  
13 comments but still wishes to be heard, they would have  
14 notice at least and could raise the issue with Your Honor  
15 were they to want to be heard orally.  
16 **SPECIAL MASTER POPPITI:** I don't want to  
17 make any -- I certainly don't want to make a mountain out  
18 of anything. If there is no dispute that those that have  
19 not filed should also have an opportunity to be heard in  
20 the interest of inclusion, then I am not going to have a  
21 problem with that so long as the comments are  
22 coordinated. And I do agree that the best way to do that  
23 is to suggest a specific amount of time for third parties  
24 to offer comment.

1 I don't know whether you want to discuss  
2 that now, whether you want to confer about it? I am not  
3 going to have any problem with any number that you land  
4 on in terms of a time frame.  
5 **MR. KING:** Your Honor, it's John. In  
6 view of the fact that we will be starting at 1:00, do we  
7 have an idea of how much total time Your Honor will  
8 allocate for this hearing?  
9 **SPECIAL MASTER POPPITI:** Well, I don't  
10 want to cut you all short. You are all going to be  
11 traveling to make the effort to do the argument, so let  
12 me hear from you first in terms of how long you think you  
13 would like to take for argument and then I will tell you  
14 whether that makes sense to me.  
15 **MR. KING:** Well, I think by the time  
16 Your Honor receives all the papers, I think these issues  
17 will be pretty substantially and heavily briefed, so my  
18 intention was I can't see me needing to make a  
19 presentation of more than, say, 15 minutes to a half  
20 hour. In particular, if Your Honor has questions, I'd  
21 rather address those at the hearing than, you know,  
22 repeat everything we have written, so I don't --  
23 **SPECIAL MASTER POPPITI:** I agree with  
24 that.

1 **MR. KING:** I don't initially see the  
2 need for a whole lot of time from our side.  
3 **MR. DENGER:** I think we are in the same  
4 position in terms of an affirmative statement of our  
5 position, that we, obviously, have not seen Que Choisir's  
6 reply papers, but somewhere in the neighborhood of 15 to  
7 30 minutes and then time to respond to any questions the  
8 Court has.  
9 **SPECIAL MASTER POPPITI:** Well, those  
10 time frames make sense, so how would you propose wedding  
11 in third parties?  
12 **MR. DENGER:** Well, I would think, you  
13 know, if we urge them to coordinate their comments in one  
14 or two spokespersons, that one could allocate maybe 15 to  
15 30 minutes to the third parties. Maybe a little more  
16 if --  
17 **SPECIAL MASTER POPPITI:** If there is  
18 several, you may want to allocate a little more.  
19 **MR. DENGER:** But they, in essence, were  
20 making pretty much the same arguments.  
21 **SPECIAL MASTER POPPITI:** That's correct.  
22 I would expect that they would based on even the reading  
23 that I have done up to this point that I have in front of  
24 me.

1 Well, then, let's do this: I think the  
2 time frames that you are proposing, I think they make  
3 sense, and I think that the notice that goes to the third  
4 parties should reflect exactly what you propose for the  
5 parties' submittals. I am going to stretch it a bit only  
6 because they may elect to use more than one spokesperson.  
7 If they can be encouraged to use one, that's so much the  
8 better.  
9 What I expect would make sense is if you  
10 arrange for some meet and confer within the next few  
11 days, at least to make the arrangement with them within  
12 the next few days and get the notice out. If the notice  
13 is agreeable to everyone, it's something certainly that I  
14 don't need to approve.  
15 If there is some dispute with respect to  
16 the notice, and I expect you are going to want me to see  
17 it, if that's the case, it either has to be something  
18 that I review not later than the 18th -- actually, there  
19 is no -- I am not concerned. As long as it gets out by  
20 the 25th of July, I have more than sufficient time for  
21 third parties to make their arrangements if they haven't  
22 already done that with local counsel and to make whatever  
23 travel plans they choose to make.  
24 **MR. DENGER:** May I make a suggestion,

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1 Your Honor? That we could facilitate the third parties  
2 coordinate among themselves, rather than having them go  
3 to all the Docket entries, that we put sort of an  
4 appendix at the end just listing the third-party counsels  
5 and their contact information?  
6 **SPECIAL MASTER POPPITI:** Great idea.  
7 That's a good idea.  
8 And I did say the 25th. Let's do the  
9 28th, not later than the 28th, either have a notice  
10 that's ready to go or notice that is something that you  
11 are going to want me to see because there is some  
12 dispute.  
13 **MR. DENGER:** I would think that we  
14 hopefully would be able to get something out by the end  
15 of this week.  
16 **SPECIAL MASTER POPPITI:** I would think  
17 you could as well. I would encourage that. If you want  
18 me to land on the 18th, I am happy to do that. Does  
19 anyone object to the 18th?  
20 **MR. KING:** No, Your Honor, no.  
21 **SPECIAL MASTER POPPITI:** Let's do, for  
22 purposes of my review, if there is a dispute, I'd like to  
23 see it not later than noon on Friday, and if there isn't  
24 a dispute, not later than the end of business on Friday.

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1 **MR. KING:** In terms of the time to maybe  
2 shortcut what we will say in there, it sounds like both  
3 Que Choisir and Intel, we could say we will have up to a  
4 half hour, and then for the third parties, should we say  
5 45 minutes in total, something like that?  
6 **SPECIAL MASTER POPPITI:** I think  
7 45 minutes makes sense.  
8 **MR. KING:** Okay. And clearly, I would  
9 presume that won't foreclose anyone if Your Honor has  
10 numerous questions for one side or the other from third  
11 parties, I think we can all adapt, but these guidelines  
12 seem like they will work for everybody.  
13 **SPECIAL MASTER POPPITI:** The time frames  
14 are really for your, so I will permit you the  
15 opportunity, if you are going to be standing and making  
16 argument, I certainly would expect that that time will be  
17 -- I will spend some more time with you questioning.  
18 **MR. KING:** Okay.  
19 **SPECIAL MASTER POPPITI:** The only other  
20 question that I have with respect to the argument, I am  
21 mindful of the fact that in -- give me one moment -- in  
22 Intel's submittal, I am actually in the process of  
23 reading the view of several of what I would refer to as  
24 expert declarations, and I don't know whether you

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1 anticipate that any of the persons that have offered  
2 declarations are going to be there for purposes of  
3 responding to any questions that I may have or whether  
4 counsel is going to be in a position to respond to  
5 questions that may relate to some of the statements or  
6 assertions made in the declarations.  
7 For example, I am in the process of John  
8 Pierre Farge, am I saying that correctly?  
9 **MR. DENGER:** Farge, F-a-r-g-e.  
10 Your Honor, again, this is Michael  
11 Denger for Intel, and I realize this is a little unusual,  
12 but we have four declarants located in Europe. I wonder  
13 if it would be possible or if it would facilitate  
14 anything if Your Honor did have any declarations -- or  
15 any question of a technical nature for these declarants,  
16 rather than bring all four over, there are some  
17 possibilities of potentially, if we were to have some  
18 idea of the questions beforehand, we might be able to get  
19 answers were they not answerable by counsel.  
20 Alternatively, I guess, there may be  
21 ways to hook up the declarants by telephone if the Court  
22 has facilities so that the Court could put questions to  
23 them.  
24 Again, I think it would be helpful if we

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1 were to know in advance at least which declarants the  
2 Court may have questions for so we could make logistical  
3 arrangements.  
4 **SPECIAL MASTER POPPITI:** I can do that  
5 and I will be in a better position to give you a date  
6 certain when you can expect to see something from me as  
7 soon as I get through the material that I have received  
8 so far and I have Que Choisir's closing paper.  
9 **MR. KING:** It's John for Que Choisir. I  
10 would be remiss if I didn't mention something which I  
11 have mentioned to Intel just in a semi meet and confer  
12 type process, but we are, Que Choisir would be able to  
13 now, in its reply brief, be more specific on several  
14 issues.  
15 **SPECIAL MASTER POPPITI:** Okay.  
16 **MR. KING:** And I think that will impact  
17 the need to deal with those particular declarants, for  
18 starters. So I would suggest we may want to have this  
19 type of discussion, maybe another impromptu hearing like  
20 this, once we have filed our reply.  
21 **SPECIAL MASTER POPPITI:** That makes  
22 sense.  
23 **MR. KING:** And what we did was invite,  
24 we think it will be appropriate for Intel to most likely

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1 submit a further written submission, and they, having not  
 2 seen our reply, so they didn't know of any need at the  
 3 moment, but if they did, they would not oppose us  
 4 submitting a possible supplemental reply.  
 5 And I think once -- however Your Honor  
 6 decides on that, whether that's permissible or not, I  
 7 think once our position is out there in writing, which it  
 8 will be as of Wednesday, we will have a better idea of  
 9 what issues are in play, and what, if any, declarants are  
 10 needed.  
 11 So I just wanted to mention that now  
 12 because I don't think that the focus will be much on  
 13 those particular declarants.  
 14 I just wanted to mention it before  
 15 people start making travel arrangements and that sort of  
 16 thing. But on Wednesday, this will be a little more  
 17 clear.  
 18 **SPECIAL MASTER POPPITI:** I appreciate  
 19 that from Intel's perspective.  
 20 So, let's hold, then, until that is  
 21 filed and that's coming in on the 23rd?  
 22 **MR. KING:** That is -- well, Que  
 23 Choisir's reply is due this Wednesday, the 16th, a couple  
 24 days.

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1 **SPECIAL MASTER POPPITI:** Okay.  
 2 Is there anything else, then, please?  
 3 Thank you all very much.  
 4 **MR. PICKETT:** John Pickett. There is  
 5 some confusion, I think, as to the hearing date for  
 6 another matter, which, obviously, you didn't intend to  
 7 deal with right now, but I do want to raise to you and  
 8 your staff, there was a hearing that was -- this is on a  
 9 motion from AMD to quash a subpoena and a motion to  
 10 compel the subpoena corresponding from Intel. That has  
 11 been set for August 21st along with this matter.  
 12 **SPECIAL MASTER POPPITI:** Right.  
 13 **MR. PICKETT:** And, to my knowledge, that  
 14 has not been set for a hearing. It is a hearing at which  
 15 I think the attorneys want to attend in person.  
 16 **SPECIAL MASTER POPPITI:** And it has not  
 17 yet been set, counsel, and the reason for that is I am  
 18 trying to coordinate a hearing date with Eric Friedberg  
 19 and with his schedule.  
 20 **MR. PICKETT:** Thank you. I just wanted  
 21 to make sure it's on the radar.  
 22 **SPECIAL MASTER POPPITI:** It's on the  
 23 radar. We just had a conversation with him a little over a  
 24 couple hours ago, and as soon as I have a handle on his

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1 schedule, then I will be back checking dates with  
 2 everyone.  
 3 **MR. PICKETT:** Thanks very much.  
 4 **SPECIAL MASTER POPPITI:** Thank you all  
 5 very much.  
 6 (The hearing was concluded at 4:53 p.m.)  
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C E R T I F I C A T E

1 STATE OF DELAWARE:  
 2  
 3 NEW CASTLE COUNTY:  
 4  
 5 I, Renee A. Meyers, a Registered Professional  
 6 Reporter, within and for the County and State aforesaid,  
 7 do hereby certify that the foregoing teleconference was  
 8 taken before me, pursuant to notice, at the time and  
 9 place indicated; that the teleconference was correctly  
 10 recorded in machine shorthand by me and thereafter  
 11 transcribed under my supervision with computer-aided  
 12 transcription; that the foregoing teleconference is a  
 13 true record; and that I am neither of counsel nor kin to  
 14 any party in said action, nor interested in the outcome  
 15 thereof.  
 16 WITNESS my hand this 14th day of July A.D.  
 17 2008.  
 18  
 19 **RENEE A. MEYERS**  
 20 REGISTERED PROFESSIONAL REPORTER  
 21 CERTIFICATION NO. 106-RPR  
 22 (Expires January 31, 2011)  
 23  
 24



<b>1</b>	<p><b>advance (1)</b> 16:1</p> <p><b>advising (1)</b> 8:1</p> <p><b>affirmative (1)</b> 11:4</p> <p><b>afternoon (6)</b> 3:3,13,19,20;4:9,11</p> <p><b>again (3)</b> 9:9;15:10,24</p> <p><b>ago (1)</b> 18:24</p> <p><b>agree (2)</b> 9:22;10:23</p> <p><b>agreeable (1)</b> 12:13</p> <p><b>agreed (1)</b> 5:13</p> <p><b>airing (1)</b> 8:21</p> <p><b>allocate (4)</b> 7:19;10:8;11:14,18</p> <p><b>along (2)</b> 6:4;18:11</p> <p><b>Alternatively (1)</b> 15:20</p> <p><b>AMD (2)</b> 4:4;18:9</p> <p><b>among (2)</b> 7:18;13:2</p> <p><b>amount (2)</b> 7:16;9:23</p> <p><b>Anderson (1)</b> 3:14</p> <p><b>answerable (1)</b> 15:19</p> <p><b>anticipate (1)</b> 15:1</p> <p><b>apologize (1)</b> 5:16</p> <p><b>appendix (1)</b> 13:4</p> <p><b>applications (1)</b> 4:15</p> <p><b>appreciate (1)</b> 17:18</p> <p><b>approach (2)</b> 7:15,22</p> <p><b>appropriate (1)</b> 16:24</p> <p><b>approve (1)</b> 12:14</p> <p><b>argument (10)</b> 4:15;7:12,17,19;8:10;9:11; 10:11,13;14:16,20</p> <p><b>arguments (1)</b> 11:20</p> <p><b>arrange (1)</b> 12:10</p> <p><b>arrangement (1)</b> 12:11</p> <p><b>arrangements (3)</b> 12:21;16:3;17:15</p>	<p><b>arrived (1)</b> 5:7</p> <p><b>assertions (1)</b> 15:6</p> <p><b>assign (1)</b> 5:19</p> <p><b>assigned (1)</b> 5:21</p> <p><b>ATHEY (3)</b> 3:3,4,7</p> <p><b>attend (1)</b> 18:15</p> <p><b>attorneys (1)</b> 18:15</p> <p><b>augmented (1)</b> 7:9</p> <p><b>August (2)</b> 5:9;18:11</p> <p><b>available (1)</b> 5:3</p> <p><b>aware (1)</b> 4:18</p>	<p>12:17</p> <p><b>caveat (1)</b> 6:17</p> <p><b>certain (1)</b> 16:6</p> <p><b>certainly (7)</b> 5:12,17;6:14,15;9:17;12:13; 14:16</p> <p><b>checking (1)</b> 19:1</p> <p><b>Choiser (1)</b> 3:2</p> <p><b>Choisir (10)</b> 3:5,10;5:6;6:9,10,24;8:8;14:3; 16:9,12</p> <p><b>Choisir's (6)</b> 4:15;5:10;7:3;11:5;16:8;17:23</p> <p><b>choose (1)</b> 12:23</p> <p><b>circuit (1)</b> 6:10</p> <p><b>Clayton (1)</b> 3:4</p> <p><b>clear (1)</b> 17:17</p> <p><b>clearly (1)</b> 14:8</p> <p><b>closing (1)</b> 16:8</p> <p><b>co-counsel (1)</b> 3:17</p> <p><b>Cohen (1)</b> 3:9</p> <p><b>comfortable (2)</b> 7:4,7</p> <p><b>coming (2)</b> 6:14;17:21</p> <p><b>comment (5)</b> 8:6;9:4,4,6,24</p> <p><b>comments (5)</b> 9:2,11,13,21;11:13</p> <p><b>compel (1)</b> 18:10</p> <p><b>computer (1)</b> 6:5</p> <p><b>concerned (1)</b> 12:19</p> <p><b>concluded (1)</b> 19:6</p> <p><b>confer (4)</b> 7:24;10:2;12:10;16:11</p> <p><b>confusion (1)</b> 18:5</p> <p><b>consider (1)</b> 7:16</p> <p><b>contact (1)</b> 13:5</p> <p><b>conversation (1)</b> 18:23</p> <p><b>coordinate (5)</b> 6:18;7:15;11:13;13:2;18:18</p> <p><b>coordinated (1)</b> 9:22</p>
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