IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

MICROPROCESSOR ANTITRUST) LITIGATION)	MDL No. 05-1717-JJF
ADVANCED MICRO DEVICES, INC. a Delaware corporation, and AMD INTERNATIONAL SALES & SERVICE, LTD., a Delaware corporation,)	ý)))
Plaintiffs,) v.	C. A. No. 05-441-JJF
INTEL CORPORATION, a Delaware corporation, and INTEL KABUSHIKI KAISHA, a Japanese corporation,)	
Defendants.)	
PHIL PAUL, on behalf of himself and all others similarly situated,)	
Plaintiffs,	C.A. No. 05-485-JJF
v.)	CONSOLIDATED ACTION
INTEL CORPORATION,	
Defendant.)	

RESPONSE OF DELL INC. TO MOTION (1) TO INTERVENE FOR PURPOSE OF UNSEALING JUDICIAL RECORDS AND (2) FOR PARTIAL REASSIGNMENT

Dell Inc. ("Dell"), a party that has produced large volumes of discovery pursuant to the third party discovery procedures in this case, respectfully submits this response to the Motion (1) to Intervene for Purpose of Unsealing Judicial Records and (2) For Partial Reassignment ("Motion") filed by the New York Times Company, Situation Publishing Ltd., Dow Jones & Co.,

& Communications Industry Association ("CCIA") (D.I. No. 840). The Motion seeks an order requiring that "all non-confidential information" contained in the parties' preliminary case statements (D.I. Nos. 625, 627, 628, 629, 634, 635, 645, 646, 648), and transcripts of certain telephone conferences and hearings (D.I. Nos. 633, 637, 683) be unsealed and made available to the public. Dell understands that certain of the confidential documents and information it produced to the parties in this case were attached to or otherwise referenced in the parties' respective case statements. To the extent that the Motion seeks disclosure of that confidential information and/or documents produced by Dell, the Motion should be denied.

Dell has produced over 89 gigabytes of data to the parties in this case. Much—if not most—of that data is composed of Dell's confidential business information and trade secrets (such as sales, pricing and cost information; information regarding business strategy; product roadmaps; etc.). The dissemination of that confidential information would significantly and irreparably harm Dell, and thus Dell produced this information in reliance upon the terms, conditions, and protections afforded to third parties by the Confidentiality Agreement and Protective Order (the "Protective Order"). See D.I. No. 276 ¶ 15 ("Any Third Party that produces documents or provides testimony in the AMD Litigation or the Class Litigation . . . shall have the full benefits and protections of this Protective Order."). Dell's reliance on those protections weighs heavily against modifying the Protective Order that has been in place for nearly two years and which induced Dell, as a third party, to produce confidential business information and trade secrets. See Pansy v. Borough of Sroudsburg, 23 F.3d 772, 790 (3rd Cir. 1994). Movants have not articulated a compelling reason for removing those protections, particularly as they

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¹ Dell expressly preserves any objection it may have to the Court's jurisdiction over it with respect to any issues that may arise in the litigation. Dell further does not waive its right to have any and all subpoenas that are served on Dell be issued out of the Western District of Texas.

have not articulated a compelling reason for removing those protections, particularly as they relate to third parties such as Dell. Therefore, to the extent that the Motion seeks access to Dell's confidential information that was included in the preliminary case statements, it should be denied.

ASHBY & GEDDES

/s/ Lauren E. Maguire

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