

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

B251481

In the Matter of)
)
INTEL CORPORATION,)
)
)
a corporation.)

DOCKET NO. 9288

ORDER DENYING MOTION OF RESPONDENT INTEL CORPORATION
TO STRIKE COMPLAINT COUNSEL'S DESIGNATION OF
DEAN A. KLEIN AND DONALD LEWINE AS POTENTIAL WITNESSES

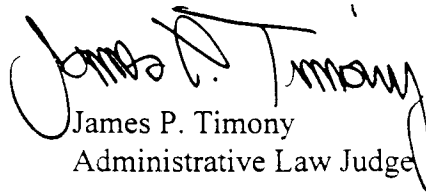
Respondent Intel Corporation ("Intel") moves to strike complaint counsel's designation of Dean A. Klein and Donald Lewine as potential witnesses. The parties exchanged their respective preliminary witness lists on September 4, 1998 and complaint counsel filed a supplemental witness list on November 13, 1998. On January 4, 1999, complaint counsel identified as potential witnesses Mr. Dean A. Klein, Chief Technical Officer for Micron Electronics, Inc. ("Micron"), who is expected to testify about the market for microprocessor products and other matters relating to the allegations and issues in the pleadings, and Mr. Donald Lewine, Chief Technology Officer for Data General Corp. ("Data General"), who is expected to testify about his reaction to conduct of Intel toward Digital and Intergraph in 1997 and other matters relating to the allegations and issues in the pleadings.

Intel asserts complaint counsel failed to previously identify Klein or Lewine as persons having knowledge and failed to disclose Micron or Data General as companies whose incentives to innovate have been chilled, despite numerous discovery requests encompassing this information. Intel further asserts it has been prejudiced because it was unable to depose Mr. Klein or prepare its expert to address claims regarding Micron prior to serving its expert report on January 6, 1999.

Complaint counsel assert they disclosed these two trial witnesses as early as possible and that they did not know of the relevant knowledge held by Klein and Lewine until December 1998, when they discovered Intel documents indicating Klein and Lewine had personal knowledge relating to allegations in the complaint. Complaint counsel further assert Intel has not been denied any discovery relating to either of these witnesses.

The close of discovery is February 12, 1999. Intel has the opportunity to depose both Klein and Lewine. Since exchanging expert reports, the parties have taken and are scheduled to take numerous other depositions. Thus, Intel cannot fairly claim undue prejudice from complaint counsel's failure to disclose Klein and Lewine in sufficient time to prepare its expert report.

For the above stated reasons, Intel's motion to strike complaint counsel's designation of Dean A. Klein and Donald Lewine as potential witnesses is DENIED.



James P. Timony
Administrative Law Judge

Dated: February 5, 1999