

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

In the Matter of )  
 )  
INTEL CORPORATION, )  
 )  
Respondent. )

Docket No. 9341  
  
PUBLIC DOCUMENT

**NON-PARTY HEWLETT-PACKARD COMPANY'S MOTION TO QUASH  
SUBPOENA DUCES TECUM SERVED BY INTEL CORPORATION**

Pursuant to Federal Trade Commission Rule of Practice 3.34(c), 16 C.F.R. § 3.34(c), non-party Hewlett-Packard Company ("HP") moves to quash the subpoena *duces tecum* served on it by Intel Corporation. The grounds for HP's motion are set forth in the accompanying Memorandum of Law.

Dated: May 10, 2010

Respectfully submitted,

Kristofor T. Henning  
Coleen M. Meehan  
Victoria L. Wesner  
Counsel for Hewlett-Packard Company  
MORGAN, LEWIS & BOCKIUS LLP  
1701 Market Street  
Philadelphia, PA 19103  
215-963-5882  
215-963-5001 (fax)

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

In the Matter of	)	
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INTEL CORPORATION,	)	Docket No. 9341
	)	
Respondent.	)	PUBLIC DOCUMENT
	)	

**MEMORANDUM OF LAW IN SUPPORT OF NON-PARTY HEWLETT-PACKARD  
COMPANY'S MOTION TO QUASH SUBPOENA *DUCES TECUM*  
SERVED BY INTEL CORPORATION**

**I. INTRODUCTION**

The Federal Trade Commission ("FTC") brought this administrative adjudicative proceeding against Intel Corporation ("Intel") for alleged violations of § 5 of the Federal Trade Commission Act. The FTC alleges that Intel holds improper monopoly power in the markets for central processing units ("CPUs"), microprocessors specifically, and graphics processing units ("GPUs"). Intel has served several document subpoenas on third-parties, including one on Hewlett-Packard Co. ("HP") that includes fifty-eight (58) separate requests for documents that, in some instances, seek documents regarding subjects about which HP already produced over 200,000 pages of documents and nine (9) deposition witnesses in private anti-trust litigation against Intel. Because Intel's subpoena is unduly burdensome, it should be quashed and Intel ordered to serve a new subpoena that is not unduly burdensome and instead narrowly tailored to seek only information/documents necessary to its defenses. If the Intel Subpoena is not quashed in its entirety, Intel should be required to reimburse HP for all of its costs and expenses incurred in responding to its subpoena.

HP had been engaged in discussions with Intel in an attempt to reach an agreement narrowing the scope of its subpoena. On Thursday, April 29, 2010, however, Intel informed HP that it would not agree (as it had in the past) to extend HP's deadline to move to quash its subpoena while those discussions continued. Intel changed its stance the following Monday. Nonetheless, despite further discussions, the parties could not reach an agreement that obviated the need for HP's present motion.

## **II. BACKGROUND**

### **A. HP's Discovery In Intel's Private Anti-Trust Litigation**

Advanced Micro Devices, Inc. ("AMD") brought an anti-trust action against Intel (now settled) that alleged Intel willfully maintained an improper monopoly in the microprocessor market in violation of § 2 of the Sherman Act. Class action plaintiffs also brought a similar action against Intel. AMD, Intel and the class plaintiffs all served third-party discovery requests on non-party HP that generally sought documents and information relating to microprocessor competition and pricing. In response, HP produced over 230,000 pages of documents (approximately 23,544 documents) and nine (9) deposition witnesses who were subject to questioning by Intel, among others.<sup>1</sup> AMD naturally also produced a voluminous amount of documents and deposition testimony to Intel. The FTC received HP's document production and participated in most, if not all, of the HP depositions. HP agrees that its prior discovery can be treated as produced in this proceeding, subject to appropriate confidentiality protections.

### **B. Discovery Requests To HP In This Proceeding**

#### **1. FTC Subpoena**

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<sup>1</sup> HP produced documents from thirty-six (36) custodians – fifteen (15) of whom Intel identified.

Complaint Counsel served a document subpoena on HP (“FTC Subpoena”), attached as Ex. A, that includes sixteen (16) separate document requests. With four limited exceptions in specification numbers 3, 9, 10 and 11 in the FTC Subpoena, Complaint Counsel has confirmed for HP that it does not seek microprocessor related documents from HP, but instead is focused on GPU, bundling, benchmarking and standards related information.<sup>2</sup>

2. Intel Subpoena

HP accepted service of a document subpoena from Intel on March 19, 2010, attached as Ex. B (“Intel Subpoena”), that according to Intel was a reaction to the information sought in the FTC Subpoena. The Intel Subpoena includes fifty-eight (58) separate requests for documents to HP that go beyond the categories of documents requested in the FTC Subpoena. At least twenty (20) seek microprocessor related information – the subject of HP’s prior document production and depositions. *See, e.g.*, Ex. B at Requests 10, 11, 15 and 19. Still others seek documents Intel itself is better suited to have and information/documents it likely already received from HP or AMD in its prior litigation. *See id.* at Request 38 (seeking, *inter alia*, documents regarding Intel’s “plans for development”); Request 40 (seeking documents regarding Intel’s relationship with NVIDIA); Request 10 (seeking documents about agreements between HP and AMD).

3. HP’s Attempts To Facilitate A Resolution Of Its Subpoenas

HP proposed to Complaint Counsel and Intel that the parties agree to a single document collection and search protocol for HP to resolve both the FTC and Intel Subpoenas and all parties agreed to attempt to do so – with HP facilitating those discussions. Therefore, in late

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<sup>2</sup> These four limited exceptions do not require that HP conduct additional custodian searches for microprocessor documents of the type produced by HP in the private antitrust litigation. In addition, specification number 9 is not a pure microprocessor request and is instead a combined request for CPU and GPU related information from January 1, 2007 through the present.



March/early April HP contacted Intel to solicit a proposal from Intel for narrowed categories of information it sought as well as potential custodians. Intel provided a proposal on April 19, 2010, attached as Ex. C, that sought, *inter alia*, microprocessor related documents, including from senior HP executives and custodians whose documents it already received in its private anti-trust litigation. On April 26, 2010, HP contacted Intel and communicated its belief that, given HP's prior document productions and depositions, the additional microprocessor related discovery Intel sought was neither appropriate nor necessary. On April 29, 2010 and May 6, 2010, Intel informed HP that it would continue to seek the microprocessor related discovery generally as outlined in its April 19, 2010 proposal, notwithstanding HP's prior discovery production (albeit by deferring a handful of the proposed custodians identified in its April 19, 2010 proposal).<sup>3</sup> Therefore, HP was forced to file this motion.

### III. ARGUMENT

"There are three tests for every subpoena duces tecum: is it definite, is it relevant, and is it reasonable." Fed. Trade Comm'n, Operating Manual (hereinafter "*F.T.C. Manual*") § 10.13.6.6.4.7.3, available at <http://www.ftc.gov/foia/adminstaffmanuals.shtm> (last accessed April 29, 2010). A subpoena is "reasonable" if it is not unduly burdensome. *Id.* Where a document subpoena is not "reasonable" – *i.e.*, is unduly burdensome – it should be quashed. The FTC Practice Rules specifically authorize the Administrative Law Judge to limit discovery upon a determination that, *inter alia*, it is "unreasonably cumulative or duplicative," is obtainable from a more convenient source or the "burden and expense of the proposed discovery outweigh its

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<sup>3</sup> On April 29, 2010, Intel informed HP that it intended to serve deposition subpoenas for current and former HP employees. The next day, April 30, 2010, Intel sent HP deposition subpoenas for three (3) current and five (5) former employees. Five (5) of the eight (8) have already been deposed in Intel's private antitrust litigation. HP's current deadline to move to quash those subpoenas for which it accepted service is May 13, 2010.

likely benefit.” 16 C.F.R. § 3.31(c)(1) (2008) (emphasis added); *see also* 16 C.F.R. § 3.31(d)(1) (2008)(authorizing Administrative Law Judge to issue order protecting non-party from undue burdensome discovery). The Intel Subpoena and its fifty-eight (58) requests are undue burdensome for HP because, among other reasons, it seeks document regarding subjects about which HP already produced hundreds of thousands of pages of documents and it otherwise seeks documents it is better suited to have or obtain from a more convenient source.

**A. The Intel Subpoena Is Unduly Burdensome For HP**

Simply put, there is no reasonable justification for Intel’s attempt to burden HP with discovery requests for subjects about which HP already produced more than 230,000 pages of documents and nine (9) deposition witnesses. Intel already sought and received documents from HP that it believed were necessary to defend against allegations of anti-trust violations with respect to the microprocessor market. Those are, of course, the nature of many of the FTC’s allegations in the instant proceeding. Having already received discovery from HP on that very subject, no additional discovery from HP is appropriate. That is particularly true given HP’s status as a non-party to this proceeding. *See, e.g., Katz v. Batavia Marine & Sporting Supplies, Inc.*, 984 F.2d 422, 424 (Fed. Cir. 1993) (“[T]he fact of nonparty status may be considered by the court in weighing the burdens imposed in the circumstances.”); *Echostar Comm. Corp. v. News Corp.*, 180 F.R.D. 391, 394 (D. Colo. 1998) (non-party status is “a factor which weighs against disclosure”) (citing *Katz v. Batavia Marine & Sporting Supplies, Inc.*, 984 F.2d 422, 424 (Fed. Cir. 1993)).

Intel has previously informed HP that the Intel Subpoena was a reaction to the FTC Subpoena. As HP explained above, however, Complaint Counsel does not seek additional microprocessor related documents from HP (with four limited exceptions) beyond those it

already received. And, Intel will naturally receive any documents Complaint Counsel receives. Therefore, Intel is not prejudiced by relying on the HP documents it previously sought and received in its private anti-trust litigation. *Cf. F.T.C. Manual* § 10.13.6.4.7.3 (“[A]s the documents sought become less clearly necessary, the ALJ, the Commission, or the courts will be likely to cut the subpoena back to reasonable limits.”).

Intel’s duplicative microprocessor related document requests are not the only flaws in the Intel Subpoena. As explained above, the Intel Subpoena also seeks documents Intel itself is better suited to have and documents regarding topics that were the subject of AMD document productions in its prior litigation. There is no reason for Intel to burden HP with requests for that information.<sup>4</sup>

**B. If Not Quashed, Intel Should Be Required To Reimburse HP For All Of Its Costs And Expenses Incurred In Responding To Its Subpoena.**

The FTC Operating Manual expressly authorizes an Order under appropriate circumstances requiring a party seeking discovery to reimburse the subject of its discovery requests for its associated costs and expenses. *F.T.C. Manual* § 10.13.6.4.7.8. HP believes the proper course is to quash the Intel Subpoena and require Intel to serve a new subpoena that is not unduly burdensome to HP and is instead narrowly tailored to seek only documents that are necessary to Intel’s defenses. If the Intel Subpoena is not quashed in its entirety, Intel should be required to reimburse HP for all of its costs and expenses incurred in responding to the Intel Subpoena. Intel previously agreed to reimburse HP for a portion of its costs incurred in its private anti-trust litigation and, therefore, such a condition in this proceeding would be equally

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<sup>4</sup> HP’s prior document production did not include a material amount of GPU related documents. HP will produce GPU related documents in response to the FTC subpoena, and Intel will, of course, receive those documents.

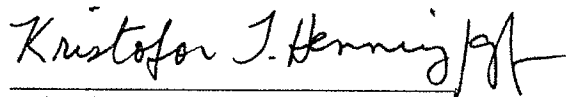
appropriate. That is particularly true given HP's prior discovery efforts and the exceptional breadth of the Intel Subpoena.<sup>5</sup>

#### IV. CONCLUSION

The Intel Subpoena should be quashed and Intel required to serve another subpoena that is not unduly burdensome to HP and is narrowly tailored to seek only documents necessary to Intel's defenses. If the Intel Subpoena is not quashed in its entirety, Intel should be required to reimburse HP for all costs and expenses incurred in responding to its Subpoena.

Dated: May 10, 2010

Respectfully submitted,



Kristofor T. Henning  
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Counsel for Hewlett-Packard Company

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<sup>5</sup> HP has also prepared formal responses and objections to the Intel Subpoena, attached hereto as Ex. D, to preserve its rights in the event any portion of the Intel Subpoena is not quashed.

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

In the Matter of )  
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INTEL CORPORATION, )  
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Respondent. )  
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Docket No. 9341

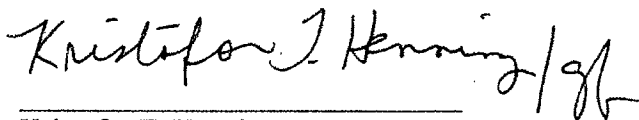
PUBLIC DOCUMENT

**STATEMENT OF KRISTOFOR T. HENNING PURSUANT TO FEDERAL TRADE  
COMMISSION RULE OF PRACTICE 3.22(G)**

I am an attorney with Morgan, Lewis & Bockius LLP and submit this statement pursuant to Federal Trade Commission Rule of Practice 3.22(g), 16 CFR § 3.22(g), in connection with Non-Party Hewlett-Packard Company's Motion to Quash Subpoena *Duces Tecum* Served by Intel Corporation. I spoke with David Emanuelson, counsel for Intel Corporation, in good faith in an attempt to resolve by agreement the issues raised by HP's Motion to Quash on at least March 30, 2010, April 19, 2010, April 26, 2010, April 29, 2010, April 30, 2010, May 5, 2010, May 6, 2010, May 7, 2010 and May 10, 2010. During those conversations, the parties were unable to reach an agreement that obviated the need for HP's motion.

Dated: May 10, 2010

Respectfully submitted,



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Counsel for Hewlett-Packard Company

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

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In the Matter of )  
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INTEL CORPORATION, )

Respondent. )  
\_\_\_\_\_ )

Docket No. 9341

PUBLIC DOCUMENT

**[PROPOSED] ORDER GRANTING MOTION OF NON-PARTY HEWLETT-PACKARD  
COMPANY TO QUASH SUBPOENA *DUCES TECUM* SERVED BY INTEL  
CORPORATION**

Before the Administrative Law Judge is Non-Party Hewlett-Packard Company's Motion to Quash Subpoena *Duces Tecum* Served By Intel Corporation ("Motion to Quash"). Having considered the Motion to Quash and the supporting arguments and the responses by Intel Corporation, this Court finds that the motion should be, and hereby is, GRANTED.

IT IS THEREFORE ORDERED that the Subpoena *Duces Tecum* issued to Hewlett-Packard Corporation on March 19, 2010 by Intel Corporation, is hereby quashed in its entirety.

ORDERED:

\_\_\_\_\_  
D. Michael Chappell  
Administrative Law Judge

Date: May \_\_, 2010

# **EXHIBIT A**



# SUBPOENA DUCES TECUM

Provided by the Secretary of the Federal Trade Commission, and  
Issued Pursuant to Commission Rule 3.34(b), 16 C.F.R. § 3.34(b)(2010)

1. TO Hewlett-Packard Company  
c/o Kristofor Henning, Esq.  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921

2. FROM  
  
UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things, at the date and time specified in Item 5, and at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

3. PLACE OF PRODUCTION  
Federal Trade Commission  
601 New Jersey Avenue, NW  
Washington, DC 20001  
(202) 326-3488

4. MATERIAL WILL BE PRODUCED TO  
Terri Martin

5. DATE AND TIME OF PRODUCTION  
April 8, 2010 @ 10:00 a.m.

6. SUBJECT OF PROCEEDING  
  
In the Matter of Intel Corporation, Docket No. 9341

7. MATERIAL TO BE PRODUCED  
Documents & material responsive to the attached Subpoena Duces Tecum Requests for Production

8. ADMINISTRATIVE LAW JUDGE  
  
The Honorable D. Michael Chappell  
  
Federal Trade Commission  
Washington, D.C. 20580

9. COUNSEL AND PARTY ISSUING SUBPOENA  
  
Thomas H. Brock  
601 New Jersey Ave., NW  
Washington, DC 20001  
(202) 326-2813

DATE SIGNED  
3/8/10

SIGNATURE OF COUNSEL ISSUING SUBPOENA  
*Thomas H. Brock*

### GENERAL INSTRUCTIONS

#### APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

#### MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena must comply with Commission Rule 3.34(c), 16 C.F.R. § 3.34(c), and in particular must be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed before the Administrative Law Judge and with the Secretary of the Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 9, and upon all other parties prescribed by the Rules of Practice.

#### TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to counsel listed in Item 9 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from counsel listed in Item 9.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.



**RETURN OF SERVICE**

*I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)*

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

*on the person named herein on:*

March 8, 2010

(Month, day, and year)

Terri Martin

(Name of person making service)

Litigation Support Specialist

(Official title)

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

In the Matter of	)	
INTEL CORPORATION,	)	Docket No. 9341
Respondent.	)	

COMPLAINT COUNSEL'S SUBPOENA *DUCES TECUM*  
TO HEWLETT-PACKARD COMPANY

REQUESTS FOR PRODUCTION

Pursuant to the Federal Trade Commission's Rules of Practice, 16 C.F.R. §3.34(b), and the Definitions and Instructions set forth below, Complaint Counsel hereby requests that Hewlett-Packard Company ("HP") produce within 30 days all documents, electronically stored information, and other things in its possession, custody, or control responsive to the following requests.

SPECIFICATIONS

In accordance with the Definitions and Instructions attached below please provide the following:

1. All DOCUMENTS relating to INTEL's representations of its roadmaps for its Nehalem family of Microprocessors.
2. All DOCUMENTS relating to INTEL's representations of its roadmaps for its Penryn family of Microprocessors.
3. From January 1, 1999 to the present, DOCUMENTS SUFFICIENT TO SHOW the effect of any agreements between INTEL and HP for the purchase of MICROPROCESSORS on:
  - a. the total number of COMPUTER SYSTEMS sold by HP; and
  - b. overall profits earned by HP.
4. All DOCUMENTS relating to HP's communications with Intel regarding the ability of NVIDIA, ATI, or other third parties' products to interoperate with any INTEL RELEVANT PRODUCT.
5. All DOCUMENTS relating to INTEL's Larrabee project, including but not limited to

external and internal communications about any aspect of Larrabee, and documents relating to HP's current and future plans to utilize Larrabee hardware or software.

6. All DOCUMENTS relating to the use of non-INTEL Graphics Hardware with INTEL's Nehalem family of MICROPROCESSORS or with successors to Nehalem, including but not limited to documents relating to the dispute between NVIDIA and INTEL on connecting NVIDIA Chipsets with INTEL Nehalem MICROPROCESSORS.
7. All DOCUMENTS relating to HP's graphics strategy, including but not limited to:
  - a. All DOCUMENTS relating to HP's assessment of INTEL's graphics capabilities, strategy, and roadmaps;
  - b. All DOCUMENTS relating to HP's assessment of NVIDIA's graphics capabilities, strategy, and roadmaps; and
  - c. All DOCUMENTS relating to HP's assessment of the graphics capabilities, strategy, and roadmap of ATI or other third parties.
8. All DOCUMENTS relating to GPU COMPUTING, including but not limited to documents relating to current and future demand for applications or features utilizing GPU COMPUTING, hardware or software requirements for GPU COMPUTING, and comparisons of hardware or software platforms capable of utilizing GPU COMPUTING.
9. All DOCUMENTS relating to the bundled or kit pricing to OEMs of INTEL MICROPROCESSORS for mobile COMPUTER SYSTEMS, including Atom, Celeron, and consumer ultra-low voltage CPUs, with any INTEL CHIPSET or GRAPHICS HARDWARE, such as the 945 and GS45 chipsets, including but not limited to price lists, communications on negotiated discounts, rebate strategy presentations, and OEM usage restriction guidelines.
10. All executive or board presentations, along with any accompanying minutes, relating to the use of benchmarks in the selection of MICROPROCESSORS from January 1, 1999 to the present.
11. DOCUMENTS SUFFICIENT TO SHOW the benchmarks used in any of HP's MICROPROCESSOR purchasing decisions from January 1, 1999 to the present.
12. All DOCUMENTS relating to HP's decision to use or not use any RELEVANT BENCHMARK in the marketing of HP's products, including communication of RELEVANT BENCHMARKS to HP customers from January 1, 1999 to the present.
13. DOCUMENTS SUFFICIENT TO SHOW HP's method of obtaining the final form of the RELEVANT BENCHMARKS, including but not limited to compilation of benchmarks initially distributed as source code such as Linpack and SPEC from January 1, 1999 to the present.

14. All DOCUMENTS relating to or discussing the accuracy of the RELEVANT BENCHMARKS from January 1, 1999 to the present.
15. All DOCUMENTS related to effects of INTEL SOFTWARE DEVELOPMENT PRODUCT on the performance of any of the RELEVANT BENCHMARKS from January 1, 1999 to the present.
16. For any version of the RELEVANT STANDARDS from January 1, 1999 to the present, all DOCUMENTS and COMMUNICATIONS from inception of the standard through the present time referring or related to:
  - a. market or consumer benefits from the standard;
  - b. licensing of the standard, including but not limited to Contributor Agreements and Promoter Group agreements;
  - c. the timing of releases of the standard;
  - d. HP's COMMUNICATIONS with INTEL regarding the standard;
  - e. compliance testing products to comply with the standard; or
  - f. development and status of implementation of the standard on INTEL products, HP's products, and INTEL'S competitors' products.

#### INSTRUCTIONS

1. The Company shall submit documents as instructed below absent written consent signed by Brendan J. McNamara or a designee.
2. Unless modified by agreement with Complaint Counsel, these Requests for Production require a complete search of all the files of the Company.
3. Unless otherwise stated, each Request calls for the production of documents dated, created, prepared, modified, received, circulated, or transmitted on or after January 1, 2007.
4. If any document covered by these Requests is withheld by reason of a claim of attorney-client privilege, attorney work product protection, or any other privilege or protection, please furnish a log providing the following information with respect to each such withheld document: document control number, date, names, positions and organizations of all authors and recipients (including designation of attorneys), general subject matter, specific legal basis upon which the document has been withheld, and any other information necessary to allow for assessment of the claim under Rule 3.38A.
5. In the Requests, the present tense shall be construed to include the past tense, and the past tense shall be construed to include the present tense. The singular shall be construed to

include the plural, and the plural shall be construed to include the singular.

6. If documents responsive to the Request no longer exist, but you have reason to believe have been in existence, state the circumstances under which they were lost or destroyed, describe the documents to the fullest extent possible, state the Request(s) to which they are responsive, and identify persons having knowledge of the content of such documents.
7. These requests shall be deemed continuing in nature so as to require further and supplemental production.
8. Forms of Production: The Company shall submit documents as instructed below:
  - a. Documents stored in electronic or hard copy formats in the ordinary course of business shall be submitted in electronic format provided that such copies are true, correct, and complete copies of the original documents:
    - i. submit Microsoft Access, Excel, and PowerPoint in native format with extracted text and metadata; and
    - ii. submit all documents other than those provided pursuant to subparts (a)(i) or (a)(iii) in image format with extracted text and metadata.
    - iii. electronic format: documents stored in hard copy form may be submitted in image format (i.e., pdf) accompanied by OCR.
  - b. For each document submitted in electronic format, include the following metadata fields and information:
    - i. for documents stored in electronic format other than email: beginning Bates or document identification number, ending Bates or document identification number, page count, custodian, creation date and time, modification date and time, last accessed date and time, size, location or path file name, and SHA Hash value;
    - ii. for emails: beginning Bates or document identification number, ending Bates or document identification number, page count, custodian, to, from, CC, BCC, subject, date and time sent, Outlook Message ID (if applicable), child records (the beginning Bates or document identification number of attachments delimited by a semicolon);
    - iii. for email attachments: beginning Bates or document identification number, ending Bates or document identification number, page count, custodian, creation date and time, modification date and time, last accessed date and time, size, location or path file name, parent record (beginning Bates or document identification number of parent email), and SHA Hash value; and
    - iv. for hard copy documents: beginning Bates or document identification number, ending Bates or document identification number, page count, and custodian.
  - c. If the Company intends to utilize any de-duplication or email threading software or services when collecting or reviewing information that is stored in the Company's computer systems or electronic storage media, or if the Company's

computer systems contain or utilize such software, the Company must contact a Commission representative to determine, with the assistance of the appropriate government technical officials, whether and in what manner the Company may use of such software or services when producing materials in response to this Request.

- d. Submit data compilations in Excel spreadsheet or in delimited text formats, with all underlying data un-redacted and all underlying formulas and algorithms intact.
  - e. Submit electronic files and images as follows:
    - i. for productions over 10 gigabytes, use IDE and EIDE hard disk drives, formatted in Microsoft Windows-compatible, uncompressed data;
    - ii. for productions under 10 gigabytes, CD-R CD-ROMs and DVD-ROM for Windows-compatible personal computers, and USB 2.0 Flash Drives are also acceptable storage formats.; and
    - iii. **All documents produced in electronic format shall be scanned for and free of viruses. The Commission will return any infected media for replacement, which may affect the timing of the Company's compliance with this Request.**
9. All documents responsive to this Request, regardless of format or form and regardless of whether submitted in hard copy or electronic format:
- a. shall be produced in complete form, un-redacted unless privileged, and in the order in which they appear in the Company's files, and shall not be shuffled or otherwise rearranged. For example:
    - i. if in their original condition hard copy documents were stapled, clipped, or otherwise fastened together or maintained in file folders, binders, covers, or containers, they shall be produced in such form, and any documents that must be removed from their original folders, binders, covers, or containers in order to be produced shall be identified in a manner so as to clearly specify the folder, binder, cover, or container from which such documents came; and
    - ii. if in their original condition electronic documents were maintained in folders or otherwise organized, they shall be produced in such form and information shall be produced so as to clearly specify the folder or organization format;
  - b. shall be marked on each page with corporate identification and consecutive document control numbers;
  - c. shall be produced in color where necessary to interpret the document (if the coloring of any document communicates any substantive information, or if black-and-white photocopying or conversion to TIFF format of any document (e.g., a chart or graph), makes any substantive information contained in the document unintelligible, the Company must submit the original document, a like-colored photocopy, or a JPEG format image);
  - d. shall be accompanied by an affidavit of an officer of the Company stating that the copies are true, correct, and complete copies of the original documents; and

- e. shall be accompanied by an index that identifies: (i) the name of each person from whom responsive documents are submitted; and (ii) the corresponding consecutive document control number(s) used to identify that person's documents, and if submitted in paper form, the box number containing such documents. If the index exists as a computer file(s), provide the index both as a printed hard copy and in machine-readable form (provided that Commission representatives determine prior to submission that the machine-readable form would be in a format that allows the agency to use the computer files). The Commission representative will provide a sample index upon request.
10. To furnish a complete response to these Requests, the person supervising compliance must submit a signed and notarized copy of the attached verification form along with the responsive materials.
11. Questions regarding this request for production may be directed to Brendan J. McNamara, at (202) 326-3703. The response to this request for production should be directed to the attention of Terri Martin and delivered between 9:00 a.m. and 5:00 p.m. on any business day to Federal Trade Commission, Bureau of Competition, 601 New Jersey Avenue, NW, Room 7147, Washington, DC 20001 or to the address subsequently supplied. Hand delivery by courier to Ms. Martin will be acceptable.

## DEFINITIONS

1. "And" and "or" have both conjunctive and disjunctive meanings.
2. "AMD" shall mean and refer to Advanced Micro Devices, Inc., including without limitation all of its corporate locations, and all predecessors, subsidiaries, parents, and affiliates, and all past or present officers, directors, agents, representatives, employees, consultants, attorneys, entities acting in joint-venture or partnership relationships with defendants, and others acting on their behalf.
3. "ATI" shall mean and refer to the current AMD Graphics Product Group, formerly ATI Technologies, Inc. including without limitation all of its corporate locations, and all predecessors, subsidiaries, parents, and affiliates, and all past or present officers, directors, agents, representatives, employees, consultants, attorneys, entities acting in joint-venture or partnership relationships with ATI, and others acting on their behalf.
4. "CHIPSET" shall mean and refer to all computer chips used on a COMPUTER SYSTEM'S motherboard, whether individually or as part of a set, that are compatible with any MICROPROCESSOR.
5. "COMMUNICATION" shall mean any exchange, transfer, or dissemination of information, regardless of the means, including telephone, by which it is accomplished.
6. "COMPUTER SYSTEM" shall mean and refer to any computer product that utilizes a MICROPROCESSOR including, without limitation, desktop computers, laptop computers, netbook computers, workstations, or servers.
7. "HP," "COMPANY," "YOU," and "YOUR" shall each mean and refer to Hewlett-Packard Company including without limitation all of its corporate locations, and all predecessors, subsidiaries, parents, and affiliates, and all past or present officers, directors, agents, representatives, employees, consultants, attorneys, entities acting in joint-venture or partnership relationships with defendants, and others acting on their behalf.
8. "Discuss" and "discussing" shall mean in whole or in part constituting, containing, describing, or addressing the designated subject matter, regardless of the length of the treatment or detail of analysis of the subject matter, but not merely referring to the designated subject matter without elaboration. A document that "discusses" another document includes the other document itself.
9. "DOCUMENTS" shall mean all original and nonidentical copies of the original of all written, recorded, transcribed, or graphic matter of every type and description, however and by whomever prepared, produced, reproduced, disseminated, or made, including but



not limited to analyses, letters, telegrams, memoranda, reports, books, studies, surveys, forecasts, pamphlets, notes, graphs, tapes, data sheets, printouts, websites, microfilm, indices, calendar or diary entries, manuals, guides, outlines, abstracts, histories, and agendas, minutes, or records of meetings, conferences, electronic mail and telephone or other conversations or communications, as well as films, tapes or slides and all other data compilations or databases in the possession, custody or control of HP or to which HP has access. The term "DOCUMENTS" also includes drafts of documents, copies of documents that are not identical duplicates of the originals, and copies of documents the originals of which are not in the possession, custody or control of Intel.

10. "DOCUMENTS SUFFICIENT TO SHOW" shall mean documents that are necessary and sufficient to provide the specified information. Where "documents sufficient to show" is specified, if summaries, compilations, lists or synopses are available that provide the information, these should be provided in lieu of the underlying documents.
11. "GPU" shall mean and refer to specialized integrated circuits or processors that offloads 3D graphics rendering or parallel intensive computational tasks from the microprocessor.
12. "GPU COMPUTING" means general purpose computation on graphics hardware, such as GPUs. The definition includes, but is not limited to, GP-GPU, GPU compute, and parallel computing.
13. "GRAPHICS HARDWARE" shall mean and refer to specialized integrated circuits or processors that offloads 3D graphics rendering or parallel intensive computational tasks from the MICROPROCESSOR. "GRAPHICS HARDWARE" includes graphics processing units ("GPUs") whether a standalone, discrete processor or a processor integrated onto a CHIPSET.
14. "INTEL" shall each mean and refer to Intel Corporation including without limitation all of its corporate locations, and all predecessors, subsidiaries, Intel Kabushiki Kaisha, parents, and affiliates, and all past or present officers, directors, agents, representatives, employees, consultants, attorneys, entities acting in joint-venture or partnership relationships with defendants, and others acting on their behalf.
15. "INTEL SOFTWARE DEVELOPMENT PRODUCT" shall mean or refer to any product made, sold, or distributed by INTEL for use by ISVs during development of software, including but not limited to compilers, libraries, sample code, performance tuning programs, and INTEL Performance Primitives.
16. "MICROPROCESSOR" shall mean the integrated circuit that incorporates the functions of a COMPUTER SYSTEM'S Central Processing Unit ("CPU").
17. "NVIDIA" shall each mean and refer to Nvidia Corporation including without limitation all of its corporate locations, and all predecessors, subsidiaries, parents, and affiliates, and all

past or present officers, directors, agents, representatives, employees, consultants, attorneys, entities acting in joint-venture or partnership relationships with Nvidia, and others acting on its behalf.

18. "OEM" shall mean and refer to any person or entity that designs, manufactures, assembles, or sells COMPUTER SYSTEMS, including Tier One, Tier Two, and white box OEM segments.
19. "Relating to" shall mean in whole or in part constituting, containing, concerning, embodying, reflecting, discussing, explaining, describing, analyzing, identifying, stating, referring to, dealing with, or in any way pertaining to.
20. "RELEVANT BENCHMARKS" shall mean and refer to the following benchmarks since 1999: BAPCO's Sysmark and Mobilemark benchmarks, Linpack benchmarks, Cinebench benchmarks, TPC benchmarks, SAP benchmarks, SPEC, and Futuremark PC Mark and PCMark Vantage benchmarks.
21. "RELEVANT PRODUCT" shall mean and refer to MICROPROCESSORS, CHIPSETS, or GRAPHICS HARDWARE.
22. "RELEVANT STANDARDS" shall mean USB 2.0, USB 3.0, eHCI, xHCI, SATA, AHCI, DisplayPort, HDCP for DisplayPort, and Audio HD ("Azalia").
23. "VIA" shall mean and refer to Via Technologies, Inc., including without limitation all of its corporate locations, and all predecessors, subsidiaries, parents, and affiliates, and all past or present officers, directors, agents, representatives, employees, consultants, attorneys, entities acting in joint-venture or partnership relationships with defendants, and others acting on their behalf.

**CERTIFICATION**

Pursuant to 28 U.S.C. § 1746, I hereby certify under penalty of perjury that this response to the Requests for Production of Documents has been prepared by me or under my personal supervision from records of Hewlett-Packard Company, and is complete and correct to the best of my knowledge and belief.

Where copies rather than original documents have been submitted, the copies are true, correct, and complete copies of the original documents. If the Commission uses such copies in any court or administrative proceeding, Hewlett-Packard Company will not object based upon the Commission not offering the original document.

\_\_\_\_\_  
(Signature of Official)

\_\_\_\_\_  
(Title/Company)

\_\_\_\_\_  
(Typed Name of Above Official)

\_\_\_\_\_  
(Office Telephone)

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES


\_\_\_\_\_  
In the Matter of )  
 )  
 )  
INTEL CORPORATION, )  
Respondent. )  
\_\_\_\_\_ )

DOCKET NO. 9341

**PROTECTIVE ORDER GOVERNING DISCOVERY MATERIAL**

Commission Rule 3.31(d) states: "In order to protect the parties and third parties against improper use and disclosure of confidential information, the Administrative Law Judge shall issue a protective order as set forth in the appendix to this section." 16 C.F.R. § 3.31(d). Pursuant to Commission Rule 3.31(d), the protective order set forth in the appendix to that section is attached verbatim as Attachment A and is hereby issued.

ORDERED:

  
\_\_\_\_\_  
D. Michael Chappell  
Chief Administrative Law Judge

Date: December 16, 2009

## ATTACHMENT A

For the purpose of protecting the interests of the parties and third parties in the above-captioned matter against improper use and disclosure of confidential information submitted or produced in connection with this matter:

**IT IS HEREBY ORDERED THAT** this Protective Order Governing Confidential Material ("Protective Order") shall govern the handling of all Discovery Material, as hereafter defined.

1. As used in this Order, "confidential material" shall refer to any document or portion thereof that contains privileged, competitively sensitive information, or sensitive personal information. "Sensitive personal information" shall refer to, but shall not be limited to, an individual's Social Security number, taxpayer identification number, financial account number, credit card or debit card number, driver's license number, state-issued identification number, passport number, date of birth (other than year), and any sensitive health information identifiable by individual, such as an individual's medical records. "Document" shall refer to any discoverable writing, recording, transcript of oral testimony, or electronically stored information in the possession of a party or a third party. "Commission" shall refer to the Federal Trade Commission ("FTC"), or any of its employees, agents, attorneys, and all other persons acting on its behalf, excluding persons retained as consultants or experts for purposes of this proceeding.
2. Any document or portion thereof submitted by a respondent or a third party during a Federal Trade Commission investigation or during the course of this proceeding that is entitled to confidentiality under the Federal Trade Commission Act, or any regulation, interpretation, or precedent concerning documents in the possession of the Commission, as well as any information taken from any portion of such document, shall be treated as confidential material for purposes of this Order. The identity of a third party submitting such confidential material shall also be treated as confidential material for the purposes of this Order where the submitter has requested such confidential treatment.
3. The parties and any third parties, in complying with informal discovery requests, disclosure requirements, or discovery demands in this proceeding may designate any responsive document or portion thereof as confidential material, including documents obtained by them from third parties pursuant to discovery or as otherwise obtained.
4. The parties, in conducting discovery from third parties, shall provide to each third party a copy of this Order so as to inform each such third party of his, her, or its rights herein.
5. A designation of confidentiality shall constitute a representation in good faith and after careful determination that the material is not reasonably believed to be already in the public domain and that counsel believes the material so designated constitutes confidential material as defined in Paragraph 1 of this Order.

6. Material may be designated as confidential by placing on or affixing to the document containing such material (in such manner as will not interfere with the legibility thereof), or if an entire folder or box of documents is confidential by placing or affixing to that folder or box, the designation "CONFIDENTIAL-FTC Docket No. 9341" or any other appropriate notice that identifies this proceeding, together with an indication of the portion or portions of the document considered to be confidential material. Confidential information contained in electronic documents may also be designated as confidential by placing the designation "CONFIDENTIAL-FTC Docket No. 9341" or any other appropriate notice that identifies this proceeding, on the face of the CD or DVD or other medium on which the document is produced. Masked or otherwise redacted copies of documents may be produced where the portions deleted contain privileged matter, provided that the copy produced shall indicate at the appropriate point that portions have been deleted and the reasons therefor.

7. Confidential material shall be disclosed only to: (a) the Administrative Law Judge presiding over this proceeding, personnel assisting the Administrative Law Judge, the Commission and its employees, and personnel retained by the Commission as experts or consultants for this proceeding; (b) judges and other court personnel of any court having jurisdiction over any appellate proceedings involving this matter; (c) outside counsel of record for any respondent, their associated attorneys and other employees of their law firm(s), provided they are not employees of a respondent; (d) anyone retained to assist outside counsel in the preparation or hearing of this proceeding including consultants, provided they are not affiliated in any way with a respondent and have signed an agreement to abide by the terms of the protective order; and (e) any witness or deponent who may have authored or received the information in question.

8. Disclosure of confidential material to any person described in Paragraph 7 of this Order shall be only for the purposes of the preparation and hearing of this proceeding, or any appeal therefrom, and for no other purpose whatsoever, provided, however, that the Commission may, subject to taking appropriate steps to preserve the confidentiality of such material, use or disclose confidential material as provided by its Rules of Practice; sections 6(f) and 21 of the Federal Trade Commission Act; or any other legal obligation imposed upon the Commission.

9. In the event that any confidential material is contained in any pleading, motion, exhibit or other paper filed or to be filed with the Secretary of the Commission, the Secretary shall be so informed by the Party filing such papers, and such papers shall be filed *in camera*. To the extent that such material was originally submitted by a third party, the party including the materials in its papers shall immediately notify the submitter of such inclusion. Confidential material contained in the papers shall continue to have *in camera* treatment until further order of the Administrative Law Judge, provided, however, that such papers may be furnished to persons or entities who may receive confidential material pursuant to Paragraphs 7 or 8. Upon or after filing any paper containing confidential material, the filing party shall file on the public record a duplicate copy of the paper that does not reveal confidential material. Further, if the protection for any such material expires, a party may file on the public record a duplicate copy which also contains the formerly protected material.

10. If counsel plans to introduce into evidence at the hearing any document or transcript containing confidential material produced by another party or by a third party, they shall provide advance notice to the other party or third party for purposes of allowing that party to seek an order that the document or transcript be granted *in camera* treatment. If that party wishes *in camera* treatment for the document or transcript, the party shall file an appropriate motion with the Administrative Law Judge within 5 days after it receives such notice. Except where such an order is granted, all documents and transcripts shall be part of the public record. Where *in camera* treatment is granted, a duplicate copy of such document or transcript with the confidential material deleted therefrom may be placed on the public record.

11. If any party receives a discovery request in any investigation or in any other proceeding or matter that may require the disclosure of confidential material submitted by another party or third party, the recipient of the discovery request shall promptly notify the submitter of receipt of such request. Unless a shorter time is mandated by an order of a court, such notification shall be in writing and be received by the submitter at least 10 business days before production, and shall include a copy of this Protective Order and a cover letter that will apprise the submitter of its rights hereunder. Nothing herein shall be construed as requiring the recipient of the discovery request or anyone else covered by this Order to challenge or appeal any order requiring production of confidential material, to subject itself to any penalties for non-compliance with any such order, or to seek any relief from the Administrative Law Judge or the Commission. The recipient shall not oppose the submitter's efforts to challenge the disclosure of confidential material. In addition, nothing herein shall limit the applicability of Rule 4.11(e) of the Commission's Rules of Practice, 16 CFR 4.11(e), to discovery requests in another proceeding that are directed to the Commission.

12. At the time that any consultant or other person retained to assist counsel in the preparation of this action concludes participation in the action, such person shall return to counsel all copies of documents or portions thereof designated confidential that are in the possession of such person, together with all notes, memoranda or other papers containing confidential information. At the conclusion of this proceeding, including the exhaustion of judicial review, the parties shall return documents obtained in this action to their submitters, provided, however, that the Commission's obligation to return documents shall be governed by the provisions of Rule 4.12 of the Rules of Practice, 16 CFR 4.12.

13. The provisions of this Protective Order, insofar as they restrict the communication and use of confidential discovery material, shall, without written permission of the submitter or further order of the Commission, continue to be binding after the conclusion of this proceeding.

**CERTIFICATE OF SERVICE**

I certify that I delivered via electronic mail one copy of the foregoing Subpoena *Duces Tecum* to Hewlett-Packard Company to:

James C. Burling  
Eric Mahr  
Wendy A. Terry  
Wilmer Cutler Pickering Hale & Dorr  
1875 Pennsylvania Ave., N.W.  
Washington, DC 20006  
[james.burling@wilmerhale.com](mailto:james.burling@wilmerhale.com)  
[eric.mahr@wilmerhale.com](mailto:eric.mahr@wilmerhale.com)  
[wendy.terry@wilmerhale.com](mailto:wendy.terry@wilmerhale.com)

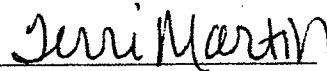
Robert E. Cooper  
Joseph Kattan  
Daniel Floyd  
Gibson Dunn & Crutcher  
1050 Connecticut Ave., N.W.  
Washington, DC 20036  
[rcooper@gibsondunn.com](mailto:rcooper@gibsondunn.com)  
[jkattan@gibsondunn.com](mailto:jkattan@gibsondunn.com)  
[dfloyd@gibsondunn.com](mailto:dfloyd@gibsondunn.com)

Darren B. Bernhard  
Thomas J. Dillickrath  
Howrey LLP  
1299 Pennsylvania Ave., NW  
Washington, DC 20004  
[BernhardD@howrey.com](mailto:BernhardD@howrey.com)  
[DillickrathT@howrey.com](mailto:DillickrathT@howrey.com)

*Counsel for Defendant  
Intel Corporation*

March 8, 2010

By:



Terri Martin  
Federal Trade Commission  
Bureau of Competition



# **EXHIBIT B**



# SUBPOENA DUCES TECUM

Provided by the Secretary of the Federal Trade Commission, and  
Issued Pursuant to Commission Rule 3.34(b), 16 C.F.R. § 3.34(b)(2010)

1. TO Hewlett-Packard Company  
c/o Kristofor Henning, Esq.  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921

2. FROM  
  
UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things, at the date and time specified in Item 5, and at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

3. PLACE OF PRODUCTION  
Howrey LLP  
1299 Pennsylvania Ave., NW  
Washington, DC 20004-2402

4. MATERIAL WILL BE PRODUCED TO  
Darren Bernhard

5. DATE AND TIME OF PRODUCTION  
March 25, 2010 @ 10:00 a.m.

6. SUBJECT OF PROCEEDING  
  
In the Matter of Intel Corporation, Docket No. 9341

7. MATERIAL TO BE PRODUCED  
Documents & material responsive to the attached Subpoena Duces Tecum Requests for Production

8. ADMINISTRATIVE LAW JUDGE  
  
The Honorable D. Michael Chappell  
  
Federal Trade Commission  
Washington, D.C. 20580

9. COUNSEL AND PARTY ISSUING SUBPOENA  
Darren B. Bernhard  
HOWREY LLP  
1299 Pennsylvania Avenue, NW  
Washington, DC 20004  
Counsel for Intel Corporation

DATE SIGNED  
3/11/10

SIGNATURE OF COUNSEL ISSUING SUBPOENA  
*Darren B. Bernhard*

### GENERAL INSTRUCTIONS

#### APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

#### MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena must comply with Commission Rule 3.34(c), 16 C.F.R. § 3.34(c), and in particular must be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed before the Administrative Law Judge and with the Secretary of the Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 9, and upon all other parties prescribed by the Rules of Practice.

#### TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to counsel listed in Item 9 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from counsel listed in Item 9.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

**RETURN OF SERVICE**

*I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)*

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*on the person named herein on:*

March 11, 2010  
(Month, day, and year)

David T. Emanuelson  
(Name of person making service)

Senior Associate  
(Official title)

**SUBPOENA DUCES TECUM ISSUED TO HEWLETT PACKARD  
ON BEHALF OF INTEL CORPORATION  
FTC DOCKET NO. 9341**

**EXHIBIT A**

**I. REQUESTS**

1. All DOCUMENTS that Hewlett-Packard (hereinafter, "HP") has shown to, provided to, or received from, the Federal Trade Commission or the New York Attorney General relating to INTEL, AMD, or any RELEVANT PRODUCT.
2. All DOCUMENTS relating to or constituting any communication between HP and representatives of the Federal Trade Commission or the New York Attorney General relating to Intel, AMD, or any RELEVANT PRODUCT, including but not limited to: (i) communications between HP and the Federal Trade Commission relating to the merger between HP and COMPAQ; or (ii) communications between HP and the Federal Trade Commission regarding commercial desktop negotiations between HP and Intel in 2002.
3. All DOCUMENTS requested of HP in the March 8, 2010 subpoena *duces tecum* issued by the Federal Trade Commission.
4. All DOCUMENTS that were marked as Exhibits in the Federal Trade Commission's deposition of Mike Winkler in 2003.
5. All internal DOCUMENTS relating to any analysis or communication regarding any relief outlined by the Federal Trade Commission in the Notice of Contemplated Relief portion of the Complaint in *In the Matter of Intel Corporation*, FTC Docket No. 9341, attached hereto as Exhibit B.
6. All DOCUMENTS relating to the negotiation and execution of the 2002 Memorandum of Understanding executed between HP and AMD, including, but not limited to, all DOCUMENTS relating to or constituting any communications between HP or any of its representatives or agents and representatives of the Federal Trade Commission relating to the negotiation and execution of the 2002 Memorandum of Understanding between HP and AMD.
7. All DOCUMENTS relating to the 2004 Opteron Transaction Agreement between HP and AMD, including, but not limited to, all DOCUMENTS relating to negotiations between HP and AMD.
8. All DOCUMENTS relating to AMD's 2004 Market Leadership Proposal to HP, including, but not limited to, all DOCUMENTS relating to HP's evaluation of AMD's proposal.
9. All DOCUMENTS relating to the actual or proposed corporate agreement between AMD and HP, codenamed NuBalance, including, but not limited to, all DOCUMENTS relating to HP's evaluation of AMD's proposal.

10. From January 1, 2006 to present, all DOCUMENTS relating to any agreement or potential agreement between HP and AMD, including, but not limited to, all DOCUMENTS regarding the terms of any agreement between HP and AMD, the negotiations of such agreements, and HP's evaluation of such AMD's proposals and any resulting agreements.
11. From January 1, 2006 to the present, all DOCUMENTS relating to or constituting communications between HP and AMD concerning the sale of MICROPROCESSORS or GPUs from AMD or Intel.
12. From January 1, 2006 to present, all DOCUMENTS relating to competitive assessments of INTEL, AMD, or VIA, including, but not limited to, market shares, capacity, financial analyses or assessments, prices, marketing, pricing, discounting, products, technology, roadmaps, support, product supply, research and development strategies, or MICROPROCESSOR performance, including but not limited to any internal benchmarks, workloads, or tests developed or used to compare MICROPROCESSORS.
13. All DOCUMENTS relating to competitive assessments of NVIDIA, including, but not limited to, market shares, capacity, financial analyses or assessments, prices, marketing, pricing, discounting, or research and development strategies or GPU performance.
14. All DOCUMENTS relating to the ability of any RELEVANT PRODUCT made or sold by NVIDIA, ATI, or VIA to interoperate with any INTEL or AMD RELEVANT PRODUCT.
15. All DOCUMENTS from January 1, 1999 to the present that constitute, refer, or relate to HP's evaluation of the performance of any MICROPROCESSOR in connection with its purchasing decisions or award of design wins, including, but not limited to, all documents relating to HP's internal testing or benchmarking or performance or the use of externally developed benchmarks.
16. All DOCUMENTS relating to HP's use of any RELEVANT BENCHMARK in any communication to any customer, MICROPROCESSOR manufacturer, or any other third party, including, but not limited, to HP's decision to use or not use any RELEVANT BENCHMARK, the method of obtaining the final form of any RELEVANT BENCHMARK, the compilation of any RELEVANT BENCHMARK initially distributed as source code such as Linpack and SPEC, and any disclaimers or other language accompanying the RELEVANT BENCHMARK.
17. All DOCUMENTS relating to INTEL's or any other MICROPROCESSOR manufacturer's use of any RELEVANT BENCHMARK in any communication to HP, including, but not limited to, any disclaimers or other language accompanying the benchmark.
18. All DOCUMENTS relating to HP's participation in the development of any benchmark that can be used to assess MICROPROCESSOR performance or functionality, including, but not limited to, any feedback or other communication provided by HP to any entity that issued any such benchmark.
19. All DOCUMENTS relating to HP's assessment of AMD's 64-bit technology, including, but not limited to, all DOCUMENTS relating to HP's view of the impact of AMD's introduction of 64-bit technology on Intel's or HP's investment in the Itanium technology.

20. All DOCUMENTS relating to HP's decision to purchase AMD MICROPROCESSORS for integration into HP desktops and notebooks for the consumer market segment, including, but not limited to, all DOCUMENTS relating to HP's assessment of AMD's consumer desktop and notebook roadmaps and all DOCUMENTS relating to HP's assessment of the purchasing preferences of consumer customers.
21. All DOCUMENTS relating to HP's decision to purchase AMD MICROPROCESSORS for integration into HP desktops and notebooks for the commercial market segment (including both the large enterprise segment or the small and medium business segment), including, but not limited to, all DOCUMENTS relating to HP's assessment of AMD's corporate desktop and notebook roadmaps, the platform stability (including image stability) of Intel and AMD platform, the reliability of CHIPSETS for Intel and AMD platforms, and the purchasing preferences of corporate customers.
22. All DOCUMENTS relating to HP's assessment of the relative battery life of notebook PCs with Intel or AMD MICROPROCESSORS, including, but not limited to, all documents relating to the impact of such battery life on HP's purchasing decisions.
23. All DOCUMENTS relating to HP's decision to purchase AMD MICROPROCESSORS for integration into HP servers, including, but not limited to, all DOCUMENTS relating to HP's assessment of AMD's server roadmaps and all DOCUMENTS relating to HP's assessment of the purchasing preferences of server customers.
24. From January 1, 2006 to present, all DOCUMENTS relating to HP's MICROPROCESSOR and GPU or integrated graphics sourcing strategies and purchases, including, but not limited, all DOCUMENTS presented to the HP Board of Directors or HP executive committee regarding its assessment of INTEL, AMD, NVIDIA, ATI, and VIA performance, roadmaps, or assessment of the success of HP's MICROPROCESSOR and GPU or integrated graphics sourcing strategies.
25. All DOCUMENTS from January 1, 1999 to the present relating to the effect of any agreements between HP and INTEL for the purchase of ANY RELEVANT PRODUCT on the total number of computer or computer systems sold by HP and the profits earned by HP on those sales.
26. From June 1, 2006 to the present, all DOCUMENTS relating to any delay in the launch of any AMD or VIA MICROPROCESSOR
27. From June 1, 2006 to the present, all DOCUMENTS relating to any shortage in supply of any AMD or VIA MICROPROCESSOR.
28. From June 1, 2006 to the present, all DOCUMENTS relating to any testing by HP of any AMD MICROPROCESSOR or system using an AMD MICROPROCESSOR, including but not limited to any test relating to performance or battery life.
29. From June 1, 2006 to the present, all DOCUMENTS comparing the performance of a system using an AMD MICROPROCESSOR with the performance of a system using an INTEL MICROPROCESSOR.

30. From June 1, 2006 to the present, all DOCUMENTS relating to HP's consideration or analysis of any manageability or security solution from Intel or AMD.
31. From June 1, 2006 to the present, all DOCUMENTS relating to any differences in end customers' willingness to pay for AMD-based HP systems and INTEL-based HP systems, including, but not limited to, all documents relating to any differences in the prices of Intel-based and AMD-based computers sold by HP.
32. From June 1, 2006 to the present, all DOCUMENTS comparing INTEL's and AMD's manufacturing process technologies.
33. From June 1, 2006 to the present, all DOCUMENTS relating to any concerns about the acceptance of AMD-based systems among HP's commercial customers.
34. All DOCUMENTS relating to any study or analysis performed by BAIN & COMPANY of MICROPROCESSOR pricing by INTEL and/or AMD from January 1, 2005 through September 30, 2006.
35. All DOCUMENTS relating to the success, performance, sales, customer acceptance or satisfaction, or lack of any of the foregoing, of any HP computer system using a VIA MICROPROCESSOR.
36. All DOCUMENTS relating or referring to the potential use of NVIDIA's Scalable Link Interface (SLI) or AMD/ATI's CrossFire technology in or with any HP products including, but not limited to, any restrictions on requirements imposed on HP regarding such use or any discussions regarding licensing or enabling SLI or CrossFire.
37. All DOCUMENTS regarding the Common System Interconnect ("CSI"/Quick Path Interconnect ("QPI"), Peripheral Component Interconnect Express ("PCIe"), and Direct Media Interface ("DMI") interfaces.
38. All DOCUMENTS regarding INTEL's plans for development including, but not limited to, INTEL product roadmaps, INTEL product development schedules, INTEL projections regarding product releases, any changes to any Intel product roadmaps, and any communications with NVIDIA regarding changes to Intel product roadmaps.
39. From June 1, 2006 to December 31, 2007, all DOCUMENTS constituting, relating to, or reflecting communications between NVIDIA and HP relating to INTEL's plans for product development including, but not limited to, INTEL product roadmaps; INTEL product development schedules; INTEL projections regarding product releases; and any changes to any INTEL product roadmaps, including, but not limited to, INTEL's use of CSI and/or DMI bus technology.
40. All DOCUMENTS regarding the relationship between Intel and NVIDIA, including, but not limited to, any attempts between Intel and NVIDIA to collaborate on the development of RELEVANT PRODUCTS.
41. All DOCUMENTS regarding any failure by NVIDIA to supply RELEVANT PRODUCTS on a schedule or in a manner promised.

42. All DOCUMENTS relating to NVIDIA's or AMD/ATI's roadmap and any changes to those roadmaps, including, but not limited to, any requests for confidential treatment of such information and/or that such information to be provided to Intel.
43. All DOCUMENTS regarding integration of GPUs or a memory controller in the MICROPROCESSOR or in the same package with the MICROPROCESSOR.
44. All DOCUMENTS regarding NVIDIA's CHIPSET business including its decision to exit the CHIPSET business.
45. All DOCUMENTS regarding NVIDIA's production, marketing, and/or sale of QPI-compatible CHIPSETS from April 1, 2007 through November 30, 2007.
46. All DOCUMENTS regarding NVIDIA's investment in GRAPHICS HARDWARE products between 2006 and 2007.
47. All DOCUMENTS regarding NVIDIA's ability to continue to produce and/or supply CHIPSETS without a license to make CHIPSETS compatible with Intel's DMI-bus and/or Nehalem-generation microprocessors.
48. All DOCUMENTS relating to defects or failures of any NVIDIA product, including but not limited to problems involving the overheating of CHIPSETS and GPU products.
49. All DOCUMENTS relating to any limitations on the ability of NVIDIA to supply quantities of RELEVANT PRODUCTS to HP.
50. All DOCUMENTS relating to any comparison or analysis of INTEL's ability to provide non-graphics functionality in CHIPSETS with NVIDIA'S ability to provide non-graphics functionality in CHIPSETS.
51. All DOCUMENTS relating to INTEL's planned introduction of any discrete GPU product, including but not limited to Larrabee.
52. All DOCUMENTS relating to or reflecting communications between HP and NVIDIA regarding NVIDIA's Compute Unified Device Architecture ("CUDA").
53. From January 1, 2006 to present, all documents showing Your evaluation of CUDA.
54. All DOCUMENTS relating to or reflecting any delay in the release of any NVIDIA product from the date originally announced by NVIDIA or previously shown on NVIDIA roadmaps.
55. All DOCUMENTS relating to the bundled or kit pricing to OEMs of AMD MICROPROCESSORS for mobile computer systems with any AMD CHIPSET or GRAPHICS HARDWARE, including but not limited to price lists, communications on negotiated discounts, rebate strategy presentation, and OEM usage-restrictions guidelines.
56. DOCUMENTS sufficient to show, from January 1, 2006 to the present, the annual quantity of mobile computer (e.g., notebooks, laptops) sold by HP containing:



- (a) an AMD MICROPROCESSOR without a discrete GPU
- (b) an AMD MICROPROCESSOR and a discrete GPU
- (c) an INTEL MICROPROCESSOR without a discrete GPU
- (d) an INTEL MICROPROCESSOR and a discrete GPU.

- 57. DOCUMENTS sufficient to show the specific MICROPROCESSORS and specific MICROPROCESSOR/GPU combinations included within categories (a)-(d) in Request 56, including the quantity and price point(s) of HP products sold containing each MICROPROCESSOR or MICROPROCESSOR/GPU combination.
- 58. All DOCUMENTS referring or relating to any errors in the documentation (whether printed, delivered on any disc medium, or provided online), user manuals, FAQs, or customer support responses (whether oral or online), provided by or on behalf of HP regarding any HP product.

## II. INSTRUCTIONS AND DEFINITIONS

1. This Request requires you to produce all responsive Documents that are in your actual or constructive possession, custody, or control.
2. This Request is continuing so as to require supplemental responses.
3. If you maintain that any Document requested is protected from disclosure by the attorney-client privilege, the work product doctrine, or any other privilege or doctrine, provide for each such Document on the basis of privilege all information required by the FTC Rules of Practice, 16 C.F.R. § 3.38A.
4. If you object to any Request or any part of any Request set forth the basis for your objection and produce all Documents to which your objection does not apply.
5. If in answering this Request you claim any ambiguity in either the request or an applicable definition or instruction, identify in your response the language you consider ambiguous and state the interpretation you are using in responding.
6. In the event that multiple copies of a Document exist, produce every copy on which appear any notations or markings of any sort not appearing on any other copy.
7. If you or your attorney know of the existence, past or present, of any Document described in this Request, but such Document is not presently in your possession, custody, or control, or in the possession, custody, or control of your agents, representatives, or attorneys, identify the Document and the individual in whose possession, custody, or control the Document was last known to reside. If the Document no longer exists, state when, how, and why the Document ceased to exist.
8. The singular form of a word shall be interpreted as plural, and the plural form of a word shall be interpreted as singular, so as to bring within the scope of this Request any Document which might otherwise be considered beyond its scope.
9. Produce Documents responsive to individual specifications as soon as possible and without waiting to produce Documents responsive to other specifications whenever possible.

10. Except as limited below, responsive documents that originally existed in either hardcopy or electronic form must be produced in electronic image form in the following manner:
- a. *Hardcopy Document Image Format.* All hardcopy documents must be scanned as black and white images at 300 dpi resolution and must be produced in a Group IV single-page "TIFF" format with single bit CCITT compression. TIFF images that originated as hardcopy documents must be accompanied by a "load file" containing the fields: Beginning Bates number; Ending Bates number; Attachment Range; Source or Custodian. An Opticon load file (.OPT) must also be provided for TIFF images. TIFF images must be delivered in media with folders containing approximately 200 TIFF images each. However, documents must not be split across multiple directories. For searchability, HP must produce a separate text (".txt") file named to correspond with the first TIFF image of the corresponding document containing searchable text as follows for hardcopy documents: the separate .txt file must contain the Optical Character Recognition (OCR) of the hardcopy document; each document must have a separate text file; and for documents with redactions the .txt file must contain the OCR of the redacted document.
  - b. *Electronic Document Image Format.* Except as provided below, all native electronic documents must be converted to images in single page 300 dpi Group IV "TIFF" black and white images with single bit CCITT compression that reflects how the source document would have appeared if printed out to a printer attached to a computer viewing the file. AMD must produce a "load file" to accompany the images of electronic documents, which load file must facilitate the use of the produced images by a document management or litigation support system (e.g., Concordance) that must provide full searchability. An Opticon load file (.OPT) must also be provided for TIFF images. TIFF images must be delivered in media with folders containing approximately 200 TIFF images each. However, documents must not be split across multiple directories. Details are as follows:

- i. The load files that must accompany the TIFF images of electronic documents must contain information for the following fields to the extent such information exists: Beginning Bates Number; Ending Bates Number; Beginning Attachment Bates Number for any attachment or range of attachments; Ending Attachment Bates Number for any attachment or range of attachments; Custodian or Source; Relative Source Path<sup>1</sup>; Date Last Modified; File Name; File Extension; Doc Author; Email From, Email To; Email CC; Email BCC; Email Subject; and Email Sent Date. These load files must also include MD5 Hash values for all documents that are not (1) being produced natively, (2) being withheld/redacted as privileged, non-responsive, or unreadable. For searchability, a separate .txt file named to correspond with the TIFF image must contain searchable text as follows: for electronic documents the separate .txt file must contain the full extracted and searchable text of the entire electronic document; each document must have a separate text file; for documents with redactions the .txt file must contain the OCR of the redacted document.
- ii. Microsoft Excel spreadsheet files should not be converted to TIFF and should be produced in native format. A placeholder TIFF image must be created, Bates numbered and the produced Excel file must be renamed to match the Bates number on its corresponding placeholder page. However, redacted Microsoft Excel spreadsheets must be produced in TIFF format as specified in paragraph "i" above. Images for the redacted Microsoft Excel spreadsheets must display the content in the same manner as if the document were printed. Microsoft PowerPoint presentations must be converted to color JPEG format at 300 dpi resolution in "speaker notes" view so as to capture any hidden text. Any autodate macros within any electronic documents must be disabled.
- c. HP must produce the following file types in their native format and a placeholder TIFF image must be created, bates numbered and the produced file (as identified below) must be renamed to match the bates number on its corresponding placeholder page:

Excel (as specified above) and the following media files as specified below:

- .aac Advanced Audio Coding File
- .aif Audio Interchange File Format
- .iff Interchange File Format
- .m3u Media Playlist File
- .mid MIDI File
- .midi MIDI File
- .mp3 MP3 Audio File

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<sup>1</sup> "Relative Source Path" means (1) for emails and their attachments, the folder and subfolder (if any) in which the email or attachment was kept and (2) for loose electronic files, the folders and subfolders (if any) in which the document is kept.

.mpa MPEG-2 Audio File  
 .ra Real Audio File  
 .wav WAVE Audio File  
 .wma Windows Media Audio File  
 .3g2 3GPP2 Multimedia File  
 .3gp 3GPP Multimedia File  
 .asf Advanced Systems Format File  
 .asx Microsoft ASF Redirector File  
 .avi Audio Video Interleave File  
 .flv Flash Video File  
 .mkv Matroska Video File  
 .mov Apple QuickTime Movie  
 .mp4 MPEG-4 Video File  
 .mpg MPEG Video File  
 .qt Apple QuickTime Movie  
 .rm Real Media File  
 .swf Flash Movie  
 .vob DVD Video Object File  
 .wmv Windows Media Video File

- d. Intel reserves the right to request that documents originating in electronic format be produced natively.
  - e. *Unicode.* All metadata and extracted text from native files must be provided in Unicode (UTF-8) encoding to preserve any double byte characters. OCR from hardcopy and redacted images must also be provided in ASCII encoding.
  - f. *"Bates Numbering."* Each page of a produced document must have a legible, unique page identifier ("Bates Number") on the image at a location that does not obliterate, conceal, or interfere with any information from the source document. Each confidential document must also have the appropriate confidentiality legend on the bottom of each image page in such a way so as not to obliterate, conceal, or interfere with any information from the source document.
  - g. *File Naming Conventions.* Each document image file must be named with the unique Bates Number of the page of the document in the case of single-page TIFFS, followed by the extension ".TIF".
  - h. *Production Media.* The documents must be produced on external hard drive (with standard PC compatible interface).
11. None of the definitions or requests herein shall be construed as an admission relating to the existence of any evidence, to the relevance or admissibility of any evidence, or to the truth or accuracy of any statement or characterization in the definition or request.
12. "AMD" means Advanced Micro Devices Inc., and any of its past or present officers, directors, principals, agents, employees, attorneys, representatives, partners, predecessors, subsidiaries, affiliates, divisions, or departments.

13. "And" and "or" are to be interpreted so as not to exclude any information otherwise within the scope of any request.
14. "ATP" means ATI Technologies Inc. and any of its past or present officers, directors, principals, agents, employees, attorneys, representatives, partners, predecessors, subsidiaries, affiliates, divisions, or departments.
15. "BAIN & COMPANY" means Bain & Company Inc., and any of its past or present officers, directors, principals, agents, employees, attorneys, representatives, partners, predecessors, subsidiaries, affiliates, divisions, or departments.
16. "COMPAQ" means Compaq Computer Corporation and any of its past or present officers, directors, principals, agents, employees, attorneys, representatives, partners, predecessors, subsidiaries, affiliates, divisions, or departments.
17. "CHIPSET" means a group of integrated circuits that are designed to work together.
18. "DOCUMENT" includes written materials, electronically stored information, and tangible things pursuant to FTC Rules of Practice, 16 C.F.R. § 3.34(b), and means any Document in the possession or control of AMD or its counsel, or known to AMD or its counsel, and is used in its customarily broad sense to include, without limitation, the following items, whether printed, recorded, microfilmed, stored in electronic form, or reproduced by any process, or written or produced by hand, and whether or not claimed to be privileged or confidential or personal: letters; memoranda; reports; records; agreements; working papers; communications (including intradepartmental and interdepartmental communications); correspondence; summaries or records of personal conversations; diaries; forecasts; statistical statements; graphs; laboratory or research reports and notebooks; charts; minutes or records of conferences; expressions or statements of policy; lists of persons attending meetings or conferences; reports of or summaries of interviews; reports of or summaries of investigations; opinions or reports of consultants; patent appraisals; opinions of counsel; reports of or summaries of either negotiations within or without the corporation or preparations for such; brochures; manuals; pamphlets; advertisements; circulars; press releases; drafts of any Documents; books; instruments; accounts; bills of sale; invoices; tapes; electronic communications including but not limited to emails; telegraphic communications and all other material of any tangible medium of expression; schematics; computer code; and original or preliminary notes. Any comment or notation appearing on any Document, and not a part of the original text, is to be considered a separate "Document."
19. "Each" means and includes "each and every," "all" means and includes "any and all," and "any" means and includes "any and all."
20. "Federal Trade Commission" and "FTC" mean the Federal Trade Commission, and any of its directors, commissioners, employees, consultants and agents.
21. "GENERAL-PURPOSE GPU COMPUTING" means general purpose computation on GRAPHICS HARDWARE. This definition includes, but is not limited to, GP-GPU, CPU compute, and parallel computing.

22. "GPU" means graphics processing unit.
23. "GRAPHICS HARDWARE" means specialized integrated circuits or processors that offload 3D graphics rendering or parallel intensive computational tasks from the MICROPROCESSOR. This definition includes GPUs, whether standalone, discrete processor or a processor integrated onto a CHIPSET.
24. "INTEL" means Intel Corporation, and any of its past or present officers, directors, principals, agents, employees, attorneys, representatives, partners, predecessors, subsidiaries, affiliates, divisions, or departments.
25. "MICROPROCESSOR" means a central processing unit.
26. "NVIDIA" means Nvidia Corporation, and any of its past or present officers, directors, principals, agents, employees, attorneys, representatives, partners, predecessors, subsidiaries, affiliates, divisions, or departments.
27. "OEM" shall mean and refer to any person or entity that designs, manufacturers, assembles, or sells computer systems.
28. "Relating to" and "relate to" mean and include affecting, concerning, constituting, dealing with, describing, embodying, evidencing, identifying, involving, providing a basis for, reflecting, regarding, respecting, stating, or in any manner whatsoever pertaining to that subject.
29. "RELEVANT BENCHMARKS" means any version since January 1, 1999 of the following benchmarks: BAPCO's Sysmark and Mobilemark benchmarks, Linpack benchmarks, Cinebench benchmarks, TPC benchmarks, SAP benchmarks, SPEC, and Futuremark PC Mark and PCMark Vantage benchmarks.
30. "RELEVANT PRODUCT" means MICROPROCESSORS, CHIPSETS, or GRAPHICS HARDWARE.
31. "VIA" means Via Technologies Incorporated, and any of its past or present officers, directors, principals, agents, employees, attorneys, representatives, partners, predecessors, subsidiaries, affiliates, divisions, or departments.

# **EXHIBIT B**



UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman  
Pamela Jones Harbour  
William E. Kovacic  
J. Thomas Rosch

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

DOCKET NO. 9341

COMPLAINT

Pursuant to Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45 ("FTC Act") and by virtue of the authority vested in it by said Act, the Federal Trade Commission ("Commission"), having reason to believe that Intel Corporation ("Intel"), a corporation, hereinafter sometimes referred to as "Respondent," has engaged in a course of conduct that, considered individually or collectively, violates the provisions of said Act, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its Complaint stating its charges in that respect as follows:

The Federal Trade Commission Act

I. The Federal Trade Commission Act "was designed to supplement and bolster the Sherman Act and the Clayton Act ... to stop in their incipiency acts and practices which, when full blown, would violate those Acts ... as well as to condemn as 'unfair methods of competition' existing violations" of those acts and practices.<sup>1</sup> The Act gives the Commission a unique role in determining what constitutes unfair methods of competition. "[L]ike a court of equity, the Commission may consider public values beyond simply those enshrined in the letter or encompassed in the spirit of the antitrust laws."<sup>2</sup> Examples of conduct that fall within the scope of Section 5 include deceptive, collusive, coercive, predatory, unethical, or exclusionary conduct or any course of conduct that causes actual or incipient harm to competition. Moreover, where a respondent that has monopoly power

<sup>1</sup> *F.T.C. v. Brown Shoe Co.*, 384 U.S. 316, 322 (1966) (quoting *F.T.C. v. Motion Picture Adv. Serv. Co.*, 344 U.S. 392, 394-95 (1953)). See also *F.T.C. v. Texaco*, 393 U.S. 223, 225-26 (1968).

<sup>2</sup> *F.T.C. v. Sperry & Hutchinson Co.*, 405 U.S. 233, 244 (1972). See also *F.T.C. v. Cement Inst.*, 333 U.S. 683, 693 (1948); *F.T.C. v. Brown Shoe Co.*, 384 U.S. 316, 321 (1966).

engages in a course of conduct tending to cripple rivals or prevent would-be rivals from constraining its exercise of that power, and where such conduct cumulatively or individually has anticompetitive effects or has a tendency to lead to such effects, that course of conduct falls within the scope of Section 5. Respondent may defend against such charges, however, by proving that any actual or incipient anticompetitive effects resulting from the Respondent's course of conduct are offset by procompetitive effects, and that engaging in that course of conduct was reasonably necessary to achieve those offsetting precompetitive effects. The conduct alleged in this complaint, if proven, falls within the scope of Section 5.

#### Nature of the Case

2. This antitrust case challenges Intel's unfair methods of competition and unfair acts or practices beginning in 1999 and continuing through today, and seeks to restore lost competition, remedy harm to consumers, and ensure freedom of choice for consumers in this critical segment of the nation's economy. Intel's conduct during this period was and is designed to maintain Intel's monopoly in the markets for Central Processing Units ("CPUs") and to create a monopoly for Intel in the markets for graphics processing units ("GPUs").
3. Intel holds monopoly power in the markets for personal computer and server CPUs, and has maintained a 75 to 85 percent unit share of these markets since 1999. Intel's share of the revenues in these markets has consistently exceeded 80 percent, and Intel is currently not sufficiently constrained by any other CPU manufacturers, including the two other manufacturers of x86 CPUs, Advanced Micro Devices ("AMD") and Via Technologies ("Via"), or the handful of non-x86 CPU manufacturers. A number of CPU manufacturers have exited the marketplace over the last decade. Due to both Intel's conduct and high barriers to entry in the CPU markets, new entry is unlikely.
4. In 1999 after AMD released its Athlon CPU and again in 2003 after AMD released its Opteron CPU, Intel lost its technological edge in various segments of the CPU markets. Original equipment manufacturers ("OEMs") recognized that AMD's new products had surpassed Intel in terms of performance and quality of the CPU.
5. Its monopoly threatened, Intel engaged in a number of unfair methods of competition and unfair practices to block or slow the adoption of competitive products and maintain its monopoly to the detriment of consumers. Among those practices were those that punished Intel's own customers – computer manufacturers – for using AMD or Via products. Intel also used its market presence and reputation to limit acceptance of AMD or Via products, and used deceptive practices to leave the impression that AMD or Via products did not perform as well as they actually did.
6. First, Intel entered into anticompetitive arrangements with the largest computer manufacturers that were designed to limit or foreclose the OEMs' use of competitors' relevant products. On the one hand, Intel threatened to and did increase prices, terminate product and technology collaborations, shut off supply, and reduce marketing support to OEMs that purchased too many products from Intel's competitors. On the other hand, some OEMs that purchased 100 percent or nearly 100 percent of their requirements from Intel were favored with guarantees of supply during shortages, indemnification from intellectual property litigation, or extra monies to be used in bidding situations against OEMs offering a non-Intel product.

7. Second, Intel offered market share or volume discounts selectively to OEMs to foreclose competition in the relevant CPU markets. In most cases, it did not make economic sense for any OEM to reject Intel's exclusionary pricing offers. Intel's offers had the practical effect of foreclosing rivals from all or substantially all of the purchases by an OEM.
8. Third, Intel used its position in complementary markets to help ward off competitive threats in the relevant CPU markets. For example, Intel redesigned its compiler and library software in or about 2003 to reduce the performance of competing CPUs. Many of Intel's design changes to its software had no legitimate technical benefit and were made only to reduce the performance of competing CPUs relative to Intel's CPUs.
9. Fourth, Intel paid or otherwise induced suppliers of complementary software and hardware products to eliminate or limit their support of non-Intel CPU products.
10. Fifth, Intel engaged in deceptive acts and practices that misled consumers and the public. For example, Intel failed to disclose material information about the effects of its redesigned compiler on the performance of non-Intel CPUs. Intel expressly or by implication falsely misrepresented that industry benchmarks reflected the performance of its CPUs relative to its competitors' products. Intel also pressured independent software vendors ("ISVs") to label their products as compatible with Intel and not to similarly label with competitor's products' names or logos, even though these competitor microprocessor products were compatible.
11. Intel's course of conduct over the last decade was designed to, and did, stall the widespread adoption of non-Intel products. That course of conduct has limited market adoption of non-Intel CPUs to the detriment of consumers, and allowed it to unlawfully maintain its monopoly in the relevant CPU markets.
12. Having succeeded in slowing market adoption of competing CPUs over the past decade until it could catch up with competitors, Intel once again finds itself behind competitors in the GPU markets and related markets.
13. Intel has engaged in unfair methods of competition in the relevant GPU markets. Intel's conduct is specifically intended to, and does, threaten to eliminate potential competition to the CPU from GPUs and maintain Intel's monopoly in the relevant CPU markets.
14. There is also a dangerous probability that Intel's unfair methods of competition could allow it to acquire a monopoly in the relevant GPU markets.
15. The GPU markets are highly concentrated and dominated by Intel. Intel currently lags behind its competitors in both quality and innovation for both discrete GPUs (GPUs used on separate graphics cards) and integrated GPUs (GPUs integrated into computer chipsets). Intel's market share in the GPU markets is in excess of 50 percent.
16. GPUs are a threat to Intel's monopoly in the relevant CPU markets. GPUs are adding more CPU functionality with each product generation. GPU manufacturers, such as Nvidia and AMD, through its affiliate, ATI, are developing General Purpose GPUs and programming interfaces that

threaten Intel's control over the computing platform. This General Purpose GPU computing ("GP GPU") platform has the potential to marginalize Intel's long-standing CPU-centric, x86-based strategy. Currently, both high-performance computing and mainstream applications and operating systems are beginning to adopt GP GPU computing functionality.

17. GPUs also could facilitate new entry or expansion in the relevant CPU markets by other firms, such as Nvidia, AMD, or Via. The need for high-end microprocessors may be reduced as more computing tasks are handled by the GPU. Some OEMs could get equivalent performance at a cheaper cost by using a lower-end CPU with a GPU microprocessor.

18. As it did in the CPU markets, Intel recognized the threat posed by GPUs and GP GPU computing and its technological inferiority in these markets and has taken a number of anticompetitive measures to combat it. These tactics include, among others, deception relating to competitors' efforts to enable their GPUs to interoperate with Intel's newest CPUs; adopting a new policy of denying interoperability for certain competitive GPUs; establishing various barriers to interoperability; degrading certain connections between GPUs and CPUs; making misleading statements to industry participants about the readiness of Intel's GPUs; and unlawful bundling or tying of Intel's GPUs with its CPUs resulting in below-cost pricing of relevant products. Although it is not a necessary element in a Section 5 case, because Intel is likely to achieve a monopoly in the relevant GPU markets and has a monopoly in the relevant CPU markets, it is likely to recoup in the future any losses it suffered as a result of selling relevant products at prices below an appropriate measure of cost.

19. These measures are intended to slow down developments in the relevant markets until Intel can catch up, and have had the effect of foreclosing competitive GPU products and slowing the development and widespread adoption of GP GPU computing.

20. Intel's efforts to deny interoperability between competitors' (e.g., Nvidia, AMD, and Via) GPUs and Intel's newest CPUs reflect a significant departure from Intel's previous course of dealing. Intel allowed, and indeed encouraged, other companies including Nvidia to develop products that interoperated in a nondiscriminatory manner with Intel's CPUs (and its chipsets and related connections) for the last ten years. The interoperability of these complementary products, along with the innovation and intellectual property contributions made by these companies to Intel in exchange for such interoperability, made Intel's CPUs more attractive to OEMs and customers. Indeed, Intel used other companies' technologies to enhance Intel's graphics capabilities and its monopoly power in CPUs.

21. Intel's conduct and representations created a duty to deal and cooperate with its competitors, such as Nvidia, AMD, and Via, to enhance competition and innovation for the benefit of consumers. These companies' reliance on Intel's original representations was reasonable.

22. Once Nvidia and other companies committed to working with Intel, and in some cases granted significant intellectual property to Intel, and were thus locked into Intel's strategy, Intel changed its position with these companies and used its power to harm competition.

23. Intel adopted these anticompetitive business practices when the GPU began to emerge as a potential challenge to Intel's monopoly over CPUs. Intel's refusal to allow Nvidia, AMD, and Via to interoperate freely, fully, and in a nondiscriminatory manner with its CPUs, chipsets, and related connections is an unfair method of competition and an unfair practice.
24. Intel also has bundled the price of its CPU and chipset with integrated graphics to foreclose Nvidia in some market segments, resulting in below-cost pricing of relevant products in circumstances in which Intel was likely to recoup in the future any losses that it suffered as a result of selling relevant products at prices below an appropriate measure of cost.
25. Intel's unfair methods of competition have harmed current and future competition in the relevant GPU and CPU markets.
26. These and other anticompetitive practices by Intel since 1999 allowed it to maintain its monopoly position in the relevant CPU markets and will create a dangerous possibility that Intel will obtain a monopoly in the relevant GPU markets. As a result, consumers today have fewer choices of CPU and GPU manufacturers than they had a decade ago, and fewer than they would have had absent this conduct.
27. The loss of price and innovation competition in the relevant markets will continue to have an adverse effect on competition and hence consumers. Absent the remedy provided herein, Intel will continue to maintain or even enhance its market power, consumers will have fewer choices, prices will be higher than they would be in competitive markets, and quality and innovation will be diminished.
28. The synergistic effect of all of Intel's wrongful conduct has and will continue to harm competition and consumers. Intel does not have legitimate or sufficient business justifications for its conduct.

#### **Respondent**

29. Respondent Intel is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 2200 Mission College Boulevard, Santa Clara, California 95052. Intel develops, manufactures, markets, and sells computer hardware and software products, including x86 CPUs. For the fiscal year that ended December 31, 2008, Intel reported revenues of approximately \$37 billion and profits of approximately \$5 billion. Intel's microprocessor business reported revenues in excess of \$27 billion in 2008.
30. At all times relevant herein, Intel has been, and is now, a corporation as "corporation" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44. For the purposes of this Complaint, "Intel" also includes its subsidiaries and affiliates.

31. The acts and practices of Intel, including the acts and practices alleged herein, are in commerce or affect commerce in the United States, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

#### Relevant Markets

32. One set of relevant product markets are CPUs for use in desktop, notebook, netbook (or nettop) computers, servers, and narrower relevant markets contained therein, including without limitation:

- a. microprocessors for servers,
- b. microprocessors for desktop computers,
- c. microprocessors for laptop or notebook computers,
- d. microprocessors for netbook computers,
- e. any of the foregoing products in this paragraph that are based on an x86 architecture,
- f. any of the foregoing products in this paragraph as intended for particular end users or any category of end users, such as enterprise customers, and
- g. any of the foregoing products in this paragraph as distributed or resold by a particular class of OEMs or distributors.

33. A CPU is a type of microprocessor used in a computer system. A CPU is an integrated circuit chip that is often described as the "brains" of a computer system. The microprocessor performs the essential functions of processing system data and controlling other devices integral to the computer system.

34. A CPU requires a chipset to communicate with other parts of the computer. The chipset operates as the computer's nervous system, sending data between the microprocessor and input, display, and storage devices, such as the keyboard, mouse, monitor, hard drive, and CD or DVD drive.

35. Intel, Via, and AMD are the only three firms that manufacture and sell x86 microprocessors -- the industry standard for CPUs used in personal computers and servers. The x86 microprocessor architecture is the only one capable of running either the Microsoft Windows operating system (e.g., Windows XP, Vista, or Windows 7) or Apple's current Mac operating system natively for personal computers and servers. Most purchasers do not consider computers using non-x86 microprocessors

as acceptable substitutes because they cannot efficiently run the Windows operating system and compatible software.

36. A few firms produce microprocessors that are based on non-x86 microprocessor architecture. For example, IBM's Power and Sun's Sparc are used only in very high end servers and mainframes sold by those companies. These non-x86 microprocessors represent a small and diminishing niche of the relevant server CPU market. Another example of a non-x86 microprocessor architecture is ARM. ARM is used primarily in handheld devices and mobile phones. Non-x86 architectures are rarely used in mainstream personal computers or servers. Microprocessors built on non-x86 architectures do not significantly restrain Intel's monopoly power.

37. A second set of relevant product markets are GPUs (including all graphics processors, or chipsets with graphics processors regardless of industry nomenclature) for use in desktop, notebook, netbook (or nettop) computers, servers, and narrower relevant markets contained therein, including without limitation:

- a. GPUs integrated onto chipsets, and
- b. Discrete GPUs.

38. GPUs originated as specialized integrated circuits for processing of computer graphics, but as they have evolved they have taken on greater functionality. Computers may achieve faster performance by offloading other computationally intensive needs from CPUs to GPUs.

39. A GPU may either reside on a separate graphics card within a computer ("discrete GPUs") or be integrated onto the chipset. Integrated graphics solutions are usually cheaper to implement but are often less powerful than discrete GPUs.

40. The relevant geographic market is the world.

**Intel Holds a Monopoly in the Relevant CPU Markets and It is Likely to Obtain a Monopoly in the Relevant GPU Markets**

41. Intel possesses monopoly power in the relevant CPU markets. Intel's unit share in the relevant markets has exceeded 75 percent in each of the years since 1999. Its share of revenue in these markets has consistently exceeded 80 percent during that time.

42. There are significant barriers to entry in all the relevant markets. These barriers include, but are not limited to: (1) product development; (2) the cost and expertise to develop manufacturing capabilities; (3) intellectual property rights; (4) establishment of product reputation and compatibility; and (5) Intel's unfair methods of competition and efforts to maintain or obtain a monopoly position in the markets.

43. The development of a commercial product for a single segment of the market, such as servers, takes years of engineering work and several hundred million dollars in sunk capital. An entrant

would have to develop a product and ensure it was compatible with computer operating systems and applications software used by business and consumer users.

44. A supplier of a product in the relevant markets also requires access to cutting-edge manufacturing facilities capable of mass-producing products and of achieving the minimum scale required to operate efficiently and profitably. The cost of developing, building, and equipping a new facility is at least \$3 billion. In order to remain at the cutting-edge of process technology the manufacturer also would have to be prepared to invest another \$1 billion in each facility every two or three years. An entrant could not begin shipping products for four or more years after commencing construction of such a facility.

45. An entrant would have to avoid infringing the patents that apply to the relevant products.

46. An entrant would need to develop a reputation for reliability once it has a commercially ready CPU or GPU and production facilities. This is a multi-year project. Buyers of computer systems and microprocessor components demand highly reliable products.

**Intel's Unfair Methods of Competition and Deceptive Practices Maintained and Strengthened Intel's Monopoly Position in the Relevant Markets**

47. Intel has engaged in a course of conduct since 1999 that, considered individually or collectively, had the tendency to hamper and exclude rivals, and to maintain, create, or enhance Intel's monopoly power in the relevant markets.

48. Intel's unfair methods of competition harmed competition in the relevant markets. Intel's methods are coercive, oppressive, deceptive, unethical or exclusionary and caused injury to competition and consumers. Intel's conduct is likely to continue to harm competition absent the relief requested herein, and violates § 5 of the FTC Act.

A. Exclusionary Conduct with OEMs and Distributors.

49. Hewlett-Packard/Compaq, Dell, IBM, Lenovo, Toshiba, Acer/Gateway, Sun, Sony, NEC, Apple, and Fujitsu are the largest OEMs in the world ("Tier One OEMs"). Tier One OEMs account for over 60 percent of the computers with CPUs in the relevant markets. Intel has prevented or limited the sale of non-Intel CPUs to these Tier One OEMs.

50. Because of Intel's actions and threats, certain Tier One OEMs reasonably feared that purchasing too many non-Intel CPUs would expose their companies to retaliation from Intel. They were susceptible to retaliation because Intel is a "must have" or essential supplier for every Tier One OEM, for several reasons. Intel is the only firm with the CPU product breadth to meet all the requirements and be the sole supplier to a Tier One OEM. Intel is also the only CPU supplier with the current capability to supply all or nearly all of the requirements of the largest OEMs. As a result, the Tier One OEMs could not credibly threaten to shift all or even a majority of their CPU purchases away from Intel; to the contrary, Tier One OEMs needed Intel as a primary supplier.



51. Intel took advantage of its monopoly power and induced and/or coerced certain Tier One OEMs to forgo adoption or purchases of non-Intel CPUs, or to limit such purchases to a small percentage of the sales of certain computer products. In other cases, Intel paid Tier One OEMs not to sell computers with other CPUs, such as AMD's or Via's CPUs. Intel threatened OEMs that considered purchasing non-Intel CPUs with, among other things, increased prices on other Intel purchases, the loss of Intel's technical support, and/or the termination of joint development projects.

52. When Intel was unable to compel a Tier One OEM to forgo entirely the purchase of non-Intel CPUs, Intel's strategy was to induce and coerce the OEM to forgo marketing and distribution methods for computers that contained the non-Intel CPU (referred to herein as "restrictive dealing arrangements"). For example, Intel induced OEMs to forgo advertising, to forgo branding, to forgo certain distribution channels, and/or to forgo promotion of computers containing non-Intel CPUs. To secure these restrictive dealing arrangements with OEMs, Intel threatened to withhold rebates, to withhold technical support, to withhold supply, and/or to terminate joint development projects, among other things. Tier One OEMs reasonably feared that marketing computers that contained non-Intel x86 microprocessors would expose them to retaliation from Intel. Intel monitored the OEMs' compliance with these restrictions, and in some instances presented scorecards to the OEMs, evaluating their compliance.

53. Intel offered market share or volume discounts selectively to OEMs to foreclose competition in the relevant CPU markets. First, Intel taxed OEM purchases of non-Intel CPUs through the use of market share discounts. Second, Intel also offered its CPUs at prices below an appropriate measure of cost (in sales of CPUs or in kit prices of CPUs with chipsets), or volume discounts on CPU purchases that are effectively below cost (which for purposes of this complaint includes average variable cost plus an appropriate level of contribution towards sunk costs), in an effort to exclude its competitors and maintain its monopoly in the relevant CPU markets. Although it is not a necessary element under a Section 5 claim, Intel as a monopolist is likely to recoup any losses that it suffered as a result of selling any of its products to certain OEMs below cost. Third, Intel gave OEMs a choice between higher prices on both contested (meaning that another CPU manufacturer was selling that product) and uncontested CPUs, or, if the OEM refrained from purchasing certain volumes of CPUs from Intel's CPU competitors, Intel offered lower prices on certain volumes of both contested and uncontested CPUs.

54. Intel used OEMs that were exclusive to Intel to discipline and punish OEMs that chose to deal with Intel's competitors. Intel gave OEMs that agreed to buy CPUs exclusively from Intel the best pricing, supply guarantees in times of shortage, and indemnification from patent liability relating to the patent litigation initiated by Intergraph against several OEMs. Intel also offered these OEMs a slush fund of hundreds of millions of dollars to be used in bidding competitions against OEMs that offered non-Intel-based computers. These payments were contingent on the OEMs purchasing CPUs exclusively or nearly exclusively from Intel. Intel's disparate treatment of these different purchasers is not justified by any savings in Intel's costs of manufacture, delivery or sale between the favored and disfavored purchasers, or any differential services performed by the favored purchasers, but rather was another anticompetitive tactic to obtain and enforce exclusive or near exclusive dealing

respecting relevant products by OEMs with Intel, thus reinforcing and maintaining Intel's monopoly in the relevant CPU markets.

55. Intel's use of penalties, rebates, lump-sum and other payments across multiple products, differential pricing, and other conduct alleged in this Complaint maintained or is likely to maintain Intel's monopoly power to the detriment of competition, customers, and consumers. Intel would not have been able to continue charging comparably higher prices across its product lines but for its conduct, as alleged in this Complaint, that harmed competition.

B. Intel Redesigned its Software to Slow Software Performance on Non-Intel CPUs.

56. Intel sought to undercut the performance advantage of non-Intel x86 CPUs relative to Intel x86 CPUs when it redesigned and distributed software products, such as compilers and libraries.

57. A compiler is software that translates the "source code," programs written by programmers or software developers in high-level computer languages such as C++ or Fortran into "object code" (0's and 1's), the language understood by CPUs. Libraries are collections of code for performing certain functions that can be referred to by software programmers rather than rewriting the code each time the functions are performed.

58. For example, in response to AMD introduction of its Opteron CPU for servers in 2003, Intel became concerned about the competitive threat posed by Opteron processors. Intel then designed its compiler and libraries in or about 2003 to generate software that runs slower on non-Intel x86 CPUs, such as Opteron. This decrease in the efficiency of Opteron and other non-Intel x86 CPUs harmed competition in the relevant CPU markets.

59. To the public, OEMs, ISVs, and benchmarking organizations, the slower performance of non-Intel CPUs on Intel-compiled software applications appeared to be caused by the non-Intel CPUs rather than the Intel software. Intel failed to disclose the effects of the changes it made to its software in or about 2003 and later to its customers or the public. Intel also disseminated false or misleading documentation about its compiler and libraries. Intel represented to ISVs, OEMs, benchmarking organizations, and the public that programs inherently performed better on Intel CPUs than on competing CPUs. In truth and in fact, many differences were due largely or entirely to the Intel software. Intel's misleading or false statements and omissions about the performance of its software were material to ISVs, OEMs, benchmarking organizations, and the public in their purchase or use of CPUs. Therefore, Intel's representations that programs inherently performed better on Intel CPUs than on competing CPUs were, and are, false or misleading. Intel's failure to disclose that the differences were due largely to the Intel software, in light of the representations made, was, and is, a deceptive practice. Moreover, those misrepresentations and omissions were likely to harm the reputation of other x86 CPUs companies, and harmed competition.

60. Some ISVs requested information from Intel concerning the apparent variation in performance of identical software run on Intel and non-Intel CPUs. In response to such requests, on numerous occasions, Intel misrepresented, expressly or by implication, the source of the problem and whether it could be solved.

61. Intel's software design changes slowed the performance of non-Intel x86 CPUs and had no sufficiently justifiable technological benefit. Intel's deceptive conduct deprived consumers of an informed choice between Intel chips and rival chips, and between Intel software and rival software, and raised rivals' costs of competing in the relevant CPU markets. The loss of performance caused by the Intel compiler and libraries also directly harmed consumers that used non-Intel x86 CPUs.

C. Intel Misrepresented Industry Benchmarks to Favor its CPUs.

62. Benchmarking is the act of executing a computer program, or a set of programs, on different computer systems, in order to assess the relative performance of those computer systems. Consumers decide on purchases, OEMs select components, and CPU producers make pricing and model number designations, based on benchmark results; ISVs rely on benchmarks as well.

63. Intel failed to disclose the effects of its software redesign on non-Intel CPUs to benchmarking organizations, OEMs, ISVs, or consumers.

64. Several benchmarking organizations adopted benchmarks that measured performance of CPUs running software programs compiled using the Intel compiler or libraries. Intel's deception affected among others, the Business Applications Performance Corporation ("BAPCo"), Cinebench, and TPC benchmarks.

65. Intel disseminated or caused to be disseminated advertisements, including product labeling and other promotional materials, to induce consumers to purchase computers with Intel CPUs. In these advertisements, Intel promoted its systems' performance under various benchmarks, which Intel expressly or by implication represented to be accurate or realistic measures of typical or "real world" computer usage or performance.

66. In truth and in fact, the benchmarks Intel publicized were not accurate or realistic measures of typical computer usage or performance, because they did not simulate "real world" conditions, and/or overestimated the performance of Intel's product vis-à-vis non-Intel products. Therefore, the representations and omissions of material facts made by Intel as described in paragraphs 63 through 65 above, were and are false or misleading.

67. Intel publicized the results of the benchmarking to promote sales of products containing its x86 CPUs even though it knew the benchmarks were misleading. For example:

- a. On its website, Intel states: "Sysmark 2007 Preview [BAPCo's then-latest benchmark] features user-driven workloads." In truth and in fact, the workloads were not user-driven, in that they did not reflect a typical user experience, but instead were manipulated to make Intel processors perform better on the benchmark than AMD's.

- b. In its "Quick Reference Matrix Q3 2008," Intel stated that its x86 CPUs had a "27% faster productivity benchmark than the competition," based on a test against an AMD processor using SysMark 2007. In truth and in fact, the benchmark did not reliably measure productivity.
- c. Intel's website includes a White Paper called "Choosing the Right Client Computing Platform for Public Sector Organizations and Enterprises." In the document, Intel stated that the "SYSmark 2007 Preview is a benchmark test that measures the performance of client computing software when executing what is designed to measure real-life activities." In truth and in fact, the benchmark was not designed to measure "real life activities," but to favor Intel's CPUs.
- d. In the same White Paper (written to help governments write technical specifications to purchase computer systems) Intel wrote: "With regard to notebooks, Intel recommends the use of BAPCo MobileMark 2007 or later versions. This benchmark measures the performance of a computer system . . . by running relevant real-world computer programs typically used by business users." Intel further stated that this benchmark provides "a performance evaluation that reflects their typical day-to-day use by business users." In truth and in fact, the benchmark did not reflect typical or day-to-day use by business users.
- e. In its "Competitive Guide" on "Quad-Core Intel Xeon Processor-based Servers vs. AMD Opteron," Intel stated that its Quad-Core Intel Xeon 5300 Series Processor was 26 percent faster in digital content creation than AMD's Quad-Core Opteron 2300 Series Processor based on the Cinebench benchmark. Intel also stated that its Quad-Core Intel Xeon 5400 Series Processor was 34 percent faster in digital content creation than AMD's Quad-Core Opteron 2300 Series Processor based on the Cinebench benchmark. In truth and in fact, the benchmark did not reliably measure the speed of digital content creation.

Therefore, the representations set forth in subparagraphs (a) through (e) above were, and are, material and false or misleading.

68. Through the means described in paragraphs 63 through 65 and 67, above, Intel has represented, expressly or by implication, that:

- a. Benchmarks, such as SysMark2007 Preview, that Intel used to compare Intel CPUs to competitors' CPUs were accurate and realistic measures of typical computer usage or performance;
- b. Intel's x86 CPU works 27 percent faster under typical computer usage conditions than competitive CPUs, including the AMD processor;

- c. The BAPCo MobileMark 2007 benchmark and later versions provide a reliable performance evaluation of x86 CPUs against competitive brands based on typical day-to-day use by business users; and
- d. The Cinebench benchmark provides a reliable performance evaluation of x86 CPUs against competitive brands in performance of digital content creation.

69. Through the means described in paragraphs 63 through 65 and 67, Intel has represented, expressly or by implication, that it possessed and relied upon a reasonable basis to substantiate the representations set forth in paragraph 68, at the time the representations were made.

70. In truth and in fact, Intel did not possess and rely upon a reasonable basis that substantiated the representations set forth in paragraph 68 at the time the representations were made. Therefore, the representations set forth in paragraph 69 were and are false or misleading.

71. Intel's conduct as described in paragraphs 52 through 70, above, eroded the credibility and reliability of these benchmarks and the software compiled by Intel compilers to the detriment of consumers. Intel's conduct was misleading and had the purpose and effect of harming competition and thus enhancing Intel's monopoly power. Intel had a duty, arising from its conduct and statements, to disclose the complete truth, which would have eliminated most if not all of the harm to competition and consumers. Intel lacks a legitimate or sufficient business justification for its conduct.

D. Intel Induced OEMs and Companies in Complementary Markets to Eliminate or Limit Support of Competitive CPU Products.

72. Intel paid or otherwise induced OEMs and companies in complementary markets to eliminate or limit their support of competitive CPU products.

73. For example, Intel paid ISVs to change their software designs, including by switching to use of Intel's compilers and software, to favor Intel's CPUs. As a result of Intel's inducements, they also labeled their products as compatible with Intel but intentionally omitted that they were also compatible with non-Intel CPUs.

74. Intel also prevented ISVs from promoting or otherwise engaging in co-development or joint marketing with AMD and other CPU manufacturers, by causing those ISVs to fear that Intel would withdraw its support for their products. As a result, Intel created a false impression that the ISV software was incompatible with non-Intel CPUs because Intel required that only its name (versus including other CPU manufacturers as well) be listed on the product.

**Intel's Unfair Methods of Competition in the Relevant GPU Markets**

75. Intel, Nvidia, and ATI (a subsidiary of AMD) account for nearly all the sales of GPUs in the relevant markets. Intel holds approximately 50 percent of these markets through its sales of GPUs

integrated on chipsets, with the remainder of the markets split between Nvidia and ATI.

76. There are high barriers to entry in the relevant GPU markets.
77. GPUs allow OEMs to use lower-end CPUs or fewer microprocessors for a given level of performance.
78. Nvidia has developed GP GPUs and related programming tools that can perform many of the same functions as CPUs.
79. Nvidia's ongoing development of sophisticated GPUs and related tools poses a potential threat to Intel's monopoly position in the relevant CPU markets.
80. Manufacturers of complementary products, such as GPUs, rely on open interfaces (e.g., busses, connections, and related programming) between the CPU and the chipset, and between the chipset and the GPU. Intel dictates the interoperability of these interfaces, because it has monopoly power over the relevant CPUs.
81. These interfaces are essential for such complementary products to be used in a computer. For many years, Intel allowed unhindered accessibility to these interfaces and encouraged others to become reliant on that accessibility. However, after Nvidia, Via, AMD, OEMs, and consumers became dependent on the Intel-controlled interfaces, recently Intel has selectively cut off or hindered accessibility to enhance or obtain monopoly power in the relevant markets.
82. For example, Intel encouraged Nvidia to innovate on the Intel platform. Intel and Nvidia worked together for a number of years to ensure that Nvidia's GPUs could interoperate with Intel's CPU.
83. Intel licensed Nvidia to allow it to manufacture GPUs integrated on chipsets to be used with Intel's CPUs.
84. Intel's apparent willingness to allow Nvidia to interoperate with Intel's CPU has dissolved as it has begun to perceive Nvidia as a threat to its monopoly position in the relevant markets. Intel now has reversed its previous course of allowing Nvidia integrated GPU chipsets to interoperate with Intel CPUs, thereby foreclosing Nvidia's integrated GPU chipsets from connecting to Intel's future CPU platforms.
85. Before expressly refusing to deal with Nvidia on integrated GPU chipsets for its new family of CPUs, Intel engaged in deception by misleading Nvidia on Intel's CPU roadmaps, thereby greatly increasing its competitor's costs and further delaying the development of other products that would have accelerated the adoption of GP GPU computing. Intel also took steps to create technological barriers to interoperability to preclude the possibility that integrated CPU chipsets could interconnect with future Intel CPUs.

86. For discrete GPUs, Intel has created several interoperability problems, including reductions of speed and encryption, that have had the effect of degrading the industry standard interconnection with Intel's CPUs. Some of this conduct appears to have been specifically targeted at crippling GP GPU computing functionality.

87. Intel has sought to ensure that its own x86-based GP GPU computing programming tools and interfaces will become the industry standard. In order to accomplish this, Intel has disparaged non-Intel programming tools and interfaces and made misleading promises to the industry about the readiness of Intel's GP GPU hardware and programming tools.

88. Intel also bundles its CPUs with its own GPU chipsets and then prices the bundle to deter OEMs from pairing Intel CPUs with non-Intel GPUs. Intel's bundling scheme has led to significant loss of consumer choice and has no legitimate justification except to exclude competition. Moreover, it has resulted in below-cost pricing by Intel in circumstances in which Intel is likely to recoup in the future any losses that it suffered as a result of below-cost pricing.

89. Intel sells its Atom CPU bundled with a graphics chipset. Some OEMs purchased the bundle from Intel, discarded Intel's inferior graphics chipset and chose instead to use Intel's Atom CPU with the Nvidia graphics chipset. To combat this competition, Intel charged those OEMs significantly higher prices because they used a non-Intel graphics chipset or GPU. Intel would offer the bundled pricing only to OEMs that would then use the Intel chipset in the end-product and not use a competitive product.

90. Intel's unfair methods of competition in the relevant GPU markets have specifically been used to enhance and have enhanced its monopoly position in the relevant CPU markets.

91. Intel's wrongful conduct also creates a dangerous probability that it will acquire a monopoly in the GPU markets. Intel's conduct has no legitimate or sufficient business justification and has and will continue to harm competition, innovation, and consumers, unless it is enjoined.

#### **Intel's Unfair Methods of Competition in Industry Standards**

92. Intel's course of anticompetitive and unfair conduct extends to its control of industry standards to hinder innovation by its CPU competitors and to maintain its monopoly power in the CPU markets. Using its dominant CPU position, Intel has manipulated the content and timing of many industry standards to advantage its own products and prevent competitors from introducing standards-compliant products prior to product introduction by Intel. Two examples of such anticompetitive conduct relate to the Universal Serial Bus host controller specification and the High Definition Content Protection ("HDCP") standard for use in DisplayPort connections between computers and display devices such as monitors and televisions. In these instances, Intel encouraged the industry to rely on standards that Intel controlled and represented that the standards would be fairly accessible. But Intel has delayed accessibility to the standards for its competitors so that Intel can gain a head start with its own products and wrongfully restrain competition. Intel's conduct has no offsetting, legitimate or sufficient procompetitive efficiencies but instead deters competition and enhances Intel's monopoly power in CPUs.

### **Anticompetitive Effects of Intel's Conduct**

93. The acts and practices of Intel as alleged herein have the purpose, capacity, tendency, and effect of harming competition and consumers in the relevant CPU markets. As a result, Intel's rivals and potential rivals incur higher distribution costs, face diminished sales opportunities, and secure lower revenues. Intel's conduct reasonably appears capable of making a significant contribution to the maintenance of its monopoly power or enabling it to achieve monopoly power in the relevant markets. Intel's monopoly power also has been buttressed by various unjustified restraints it places on licensees of its x86 intellectual property.

94. Intel's conduct adversely affects competition and consumers by, including but not limited to:

- a. causing higher prices of CPUs and GPUs and the products containing microprocessors;
- b. reducing competition to innovate in the relevant CPU and GPU markets by Intel and others;
- c. inhibiting Intel's competitors from effectively marketing their products to customers;
- d. reducing output of CPUs, GPUs, and the products containing them;
- e. raising rivals' costs of distribution of CPUs and GPUs;
- f. harming choice and competition at the OEM level and hence depriving consumers of their choice of CPUs and GPUs;
- g. reducing the incentive and ability of OEMs to innovate and differentiate their products in ways that would appeal to customers; and
- h. reducing the quality of industry benchmarking relied upon by OEMs and consumers in purchasing computers.

95. The acts and practices of Intel as alleged herein have the purpose, capacity, tendency, and effect to restrain competition unreasonably and to maintain Intel's monopoly power in the relevant markets. In addition, Intel's conduct is an illegal attempt to monopolize the relevant markets, and Intel has a dangerous probability of achieving a monopoly in these markets absent appropriate relief. Absent such relief, for OEMs and consumers of the relevant products, the consequences have been and likely will continue to be supracompetitive prices, reduced quality, and less innovation.



96. Intel's course of unfair methods of competition, considered individually or collectively, has harmed competition and consumers in the relevant markets. Intel's conduct has no legitimate or sufficient efficiency justification that would outweigh the anticompetitive effects of its conduct. Moreover, Intel has not used a least restrictive means to advance any legitimate goals, if any, to minimize anticompetitive effects.

#### **First Violation Alleged**

97. The allegations in paragraphs 1 through 96 above are herein incorporated by reference. Intel's acts and practices, considered individually or collectively, constitute unfair methods of competition in or affecting commerce, in violation of Section 5 of the FTC Act.

98. Such acts and practices, or the effects thereof, will continue or recur in the absence of appropriate relief.

#### **Second Violation Alleged**

99. The allegations in paragraphs 1 through 96 above are herein incorporated by reference. Intel has willfully engaged in anticompetitive and exclusionary acts and practices to acquire, enhance or maintain its monopoly power in the relevant markets, constituting unfair methods of competition in or affecting commerce, in violation of Section 5 of the FTC Act.

100. Such acts and practices, or the effects thereof, will continue or recur in the absence of appropriate relief.

#### **Third Violation Alleged**

101. The allegations in paragraphs 1 through 96 above are herein incorporated by reference. Intel has willfully engaged in anticompetitive and exclusionary acts and practices, with the specific intent to monopolize or maintain a monopoly in the relevant markets, resulting, at a minimum, in a dangerous probability of monopolization in the relevant markets, constituting unfair methods of competition in or affecting commerce, in violation of Section 5 of the FTC Act.

102. Such acts and practices, or the effects thereof, will continue or recur in the absence of appropriate relief.

#### **Fourth Violation Alleged**

103. The allegations in paragraphs 56 through 96 above are herein incorporated by reference. The acts and practices of Intel, as alleged herein, constitute deceptive acts or practices in or affecting commerce, in violation of Section 5 of the FTC Act.

104. Such acts and practices, or the effects thereof, will continue or recur in the absence of appropriate relief.

### **Fifth Violation Alleged**

105. The allegations in paragraphs 1 through 96 above are herein incorporated by reference. The acts and practices of Intel, as alleged herein, constitute unfair acts or practices in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act.

106. Such acts and practices, or the effects thereof, will continue or recur in the absence of appropriate relief.

### **NOTICE**

Notice is hereby given to the Respondent that September 15, 2010, at 10:00 a.m., or such earlier date as is determined by an Administrative Law Judge of the Federal Trade Commission, is hereby fixed as the time, and the Federal Trade Commission offices, 600 Pennsylvania Avenue, N.W., Room 532, Washington, DC 20580, as the place, when and where a hearing will be held before an Administrative Law Judge of the Federal Trade Commission, on the charges set forth in this complaint, at which time and place you will have the right under the Federal Trade Commission and Clayton Acts to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in the complaint.

Due to the nature of the complaint, the Commission finds good cause under § 3.41(b) of the Commission's Rules of Practice for Adjudicative Proceedings to extend the timed hearing to no more than 322 hours. Each side shall be allotted no more than half of the 322 hours within which to present its (i) opening statements, (ii) in limine motions, (iii) all arguments excluding the closing argument, (iv) direct or cross examinations in either party's case, or (v) other evidence that is presented live at the hearing. Counsel supporting the complaint and Respondent's counsel shall report jointly to the Administrative Law Judge each day as to the time each party has used each hearing day.

You are notified that the opportunity is afforded you to file with the Commission an answer to this complaint on or before the fourteenth day after service of it upon you. An answer in which the allegations of the complaint are contested shall contain a concise statement of the facts constituting each ground of defense; and specific admission, denial, or explanation of each fact alleged in the complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material allegations to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint, and together with the complaint will provide a record basis on which the Commission shall issue a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding. In such answer, you may, however, reserve the right to submit proposed findings and conclusions under § 3.46 of the Commission's Rules of Practice for Adjudicative Proceedings.

Failure to file an answer within the time provided above shall be deemed to constitute a waiver of your right to appear and to contest the allegations of the complaint, and shall authorize the Commission, without further notice to you, to find the facts to be as alleged in the complaint and to enter a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding.

The Administrative Law Judge will schedule an initial pre-hearing scheduling conference to be held not later than ten days after the answer is filed. The scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Room 532, Washington, DC 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the pre-hearing scheduling conference (and in any event no later than five days after the answer is filed by the last answering respondent). Rule 3.31(b) obligates counsel for each party, within five days of receiving a respondent's answer, to make certain initial disclosures without awaiting a discovery request.

#### **NOTICE OF CONTEMPLATED RELIEF**

Should the Commission conclude from the record developed in any adjudicative proceedings in this matter that the Respondent has violated or is violating Section 5 of the FTC Act, as amended, as alleged in the Complaint, the Commission may order such relief against Intel as is supported by the record and is necessary and appropriate, including, but not limited to:

1. Ordering Intel to cease and desist from the conduct alleged in the Complaint, and to take all such measures as are appropriate to correct or remedy, or to prevent the recurrence of, the anticompetitive practices engaged in by Intel.
2. An order that limits the manner in which Intel uses threats, bundled prices, quantity discounts, and other offers to encourage exclusivity or to deter competition or unfairly raise the price of its microprocessors or GPUs (including pricing conditioned on Intel getting so much of a resellers' purchases that that condition has the practical effect of foreclosing rivals from all or substantially all of that resellers' purchases, provided that pricing based purchases exceeding 60% of a resellers' historical purchases during the period the pricing is offered will be presumed to have that effect); such order may, among other things, include a prohibition against Intel from directly or indirectly requiring its customers to:
  - a. purchase only microprocessors or GPUs that have been manufactured by Intel;
  - b. purchase a minimum or fixed volume or percentage of the customer's overall CPU or GPU requirements from Intel (regardless of whether such fixed percentage relates to a product line for customers with multiple product lines or on a company-wide basis);
  - c. not purchase CPUs or GPUs manufactured by a company, or by companies, other than Intel;

- d. purchase a maximum or fixed number of CPUs or GPUs manufactured by a company, or by companies, other than Intel (regardless of whether such maximum or fixed number relates to a product line for customers with multiple product lines or on a company-wide basis);
- e. purchase a maximum or fixed percentage of the customer's GPU requirements from a company, or from companies, other than Intel (regardless of whether such maximum or fixed percentage relates to a product line for customers with multiple product lines or on a company-wide basis); or
- f. comply with restraints on the manner in which customers market, advertise, promote, distribute, or sell any products containing microprocessors that have not been manufactured by Intel.

3. Prohibiting Intel from inducing, or attempting to induce, OEMs or other third parties (i.e., ISVs) to adhere to, or agree to, any of the above requirements (as listed in Paragraphs 2.a. through 2.f. of this notice) by discriminating, or threatening to discriminate, against OEMs or other third parties that fail to adhere to, or agree to, such requirements, including, but not limited to, inducing or attempting to induce OEMs or other third parties to adhere to, or agree to, any of such requirements by engaging in, or threatening to engage in, the following:

- a. charging OEMs or other third parties lower or higher prices for CPUs or GPUs in the relevant markets (inclusive of rebates, allowances, discounts and any other adjustment to price, including anything of value that has the same practical effect as pricing, rebates, or discounts as a means of discrimination) when such price is contingent upon a specific Intel market share or if the OEM does not use a competitive product;
- b. withholding payments and/or other compensation to OEMs unless they are exclusive or near exclusive to Intel in the relevant markets;
- c. withholding research and development funds from OEMs unless they are exclusive or near exclusive to Intel in the relevant markets;
- d. allocating OEMs or other third parties fewer CPUs during periods of shortage (actual or manufactured) depending on whether they are exclusive or near exclusive to Intel in the relevant markets;
- e. providing OEMs reduced monetary or in-kind support to market, advertise, promote, or distribute products manufactured by Intel unless they are exclusive or near exclusive to Intel in the relevant markets;

- f. giving OEMs less technical support with respect to microprocessors or GPUs unless they are exclusive or near exclusive to Intel in the relevant markets;
- g. giving OEMs less access to technical information/specifications regarding microprocessors or GPUs unless they are exclusive or near exclusive to Intel in the relevant markets; and
- h. prioritizing the supply of microprocessors or GPUs to OEMs that are exclusive or near exclusive to Intel in the relevant markets.

4. With respect to an OEM that purchases a greater percentage share of Intel microprocessors (versus the percentage share of microprocessors bought by that OEM from another microprocessor supplier), Intel is prohibited from giving to that OEM more advantageous terms or conditions than those that are offered to another OEM whose percentage share is not as favorable to Intel. Intel is also prohibited from enforcing any terms or conditions in a way that favors a greater percentage share of microprocessors from Intel. For purposes of this paragraph, terms and conditions expressly include but are not limited to contracts, pricing, or purchase terms and conditions, and all actions described in Paragraphs 3.a. through 3.h. of this notice. Provided, however, it should not be a violation for Intel to offer, or its customers to accept, discounts or lower prices based solely on volume (provided that the same are in accordance with the law).

5. Prohibiting Intel from producing or distributing software or hardware that has the purpose or effect of unreasonably excluding or inhibiting competitive microprocessor or GPU products or complementary products.

6. Prohibiting Intel from pricing its microprocessors so that the incremental price to a customer of microprocessors or GPUs sold in competition with another competitor is below cost when such price includes all rebates, payments, or other price decreases on other products not in competition. Pricing will be presumed to be below cost even if it exceeds Intel's average variable cost but does not contribute to its fixed sunk costs in an appropriate multiple of that average variable cost. Pricing or sale of kit or bundled products will be presumed to be above "cost" if the "kit" or "bundle" includes an x86 product or, if it does, if, after all discounts have attributed to the competitive product(s) in the bundle, the resulting pricing is well above Intel's average variable cost plus a contribution to Intel's fixed sunk costs in an appropriate multiple of that average variable cost.

7. Requiring that, with respect to those Intel customers that purchased from Intel a software compiler that had or has the design or effect of impairing the actual or apparent performance of microprocessors not manufactured by Intel ("Defective Compiler"), as described in the Complaint:

- a. Intel provide them, at no additional charge, a substitute compiler that is not a Defective Compiler;
- b. Intel compensate them for the cost of recompiling the software they had compiled on the Defective Compiler and of substituting, and distributing to their

own customers, the recompiled software for software compiled on a Defective Compiler; and

- c. Intel give public notice and warning, in a manner likely to be communicated to persons that have purchased software compiled on Defective Compilers purchased from Intel, of the possible need to replace that software.

8. Prohibiting Intel from manufacturing or distributing computer software, hardware, or other products that impair the performance, or apparent performance, of non-Intel microprocessors or GPUs.

9. Prohibiting Intel from inducing or coercing others to design, manufacture, or sell products that impair the actual or apparent performance of non-Intel microprocessors GPUs.

10. Prohibiting Intel from making deceptive or misleading statements and omissions concerning anything (including, but not limited to, performance, roadmaps, or plans) related to the manufacturing or sale of any x86 or related product, including CPUs, GPUs, chipsets, compilers, libraries, software.

11. Requiring Intel to correct the deceptive or misleading statements and omissions it has made in the past.

12. Prohibiting Intel from coercing or influencing benchmarking organizations to adopt benchmarks that are deceptive or misleading.

13. Prohibiting Intel from improperly inducing or coercing customers not to use a competing GPU or graphics chipset.

14. Prohibiting Intel from designing or bundling together its own software or hardware so that they unfairly discriminate between Intel and non-Intel GPUs or graphics chip or related products.

15. Prohibiting Intel from directly or indirectly, expressly or by implication or effect, conditioning any discount, rebate, or other kind of consideration or benefit in connection with an OEM's purchase of Intel microprocessors on the condition that the OEM purchase another Intel product.

16. Prohibiting Intel from charging a higher price, or directly or indirectly conditioning any discount, rebate, or any other kind of consideration or benefit based solely on the inclusion, configuration, or type of software, operating system, or other component(s) used in any product into which an Intel microprocessor is to be incorporated or on the class of customers to whom the OEM's products containing Intel components will be marketed.

17. Requiring Intel to make available technology (including whatever is necessary to interoperate with Intel's CPUs or chipsets) to others, via licensing or other means, upon such terms and conditions as the Commission may order, including but not limited to extensions of terms of current licenses.

18. Prohibiting Intel from including or enforcing terms in its x86 licensing agreements that restrict the ability of licensees to change ownership, to obtain investments or financing, to outsource production of x86 microprocessors, or to otherwise partner with third parties to expand output.

19. Requiring that, for a period of time, Intel provide prior notice to the Commission of acquisitions, mergers, consolidations, or any other combinations of assets, including but not limited to intellectual property, in the relevant microprocessor markets and complementary software and hardware products.

20. Requiring that Intel, directly or through any person, corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product, in or affecting commerce, shall not make any representation, in any manner, directly or by implication, including through the use of a product name, endorsement, depiction, or illustration, about the efficacy or performance of any product unless the representation is not deceptive or misleading and, at the time the representation is made, Intel possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

21. Requiring that for a period of time after the last date of dissemination of any representation covered by any ordered relief in this matter, Intel shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- a. All advertisements and promotional materials containing the representation;
- b. All materials that were relied upon in disseminating the representation;
- c. All tests, reports, studies, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and
- d. All other documents supporting compliance with the Commission's order.

22. Prohibiting Intel from entering into, implementing, continuing, or enforcing a Contract with any Customer that requires the Customer to disclose to Respondent any plans the Customer may have to sell, or offer for sale, Computer Products containing a Competing Relevant Product.

23. Prohibiting Intel from suing or threatening to sue its competitors' third-party fabricators.

24. Requiring that Intel's compliance with the order be monitored for the full term of the order at Intel's expense by an independent monitor appointed by the Commission.

25. Requiring that Intel file periodic compliance reports with the Commission.

26. Any other relief appropriate to correct or remedy the anticompetitive effects in their incipency of any or all of the conduct alleged in the complaint.

IN WITNESS WHEREOF, the Federal Trade Commission has caused this complaint to be signed by its Secretary and its official seal to be hereto affixed, at Washington, DC, this sixteenth day of December, 2009.

By the Commission, Commissioner Kovacic recused.

SEAL

Donald S. Clark  
Secretary



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

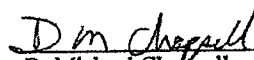
INTEL CORPORATION,  
Respondent.

DOCKET NO. 9341

**PROTECTIVE ORDER GOVERNING DISCOVERY MATERIAL**

Commission Rule 3.31(d) states: "In order to protect the parties and third parties against improper use and disclosure of confidential information, the Administrative Law Judge shall issue a protective order as set forth in the appendix to this section." 16 C.F.R. § 3.31(d). Pursuant to Commission Rule 3.31(d), the protective order set forth in the appendix to that section is attached verbatim as Attachment A and is hereby issued.

ORDERED:

  
D. Michael Chappell  
Chief Administrative Law Judge

Date: December 16, 2009

## ATTACHMENT A

For the purpose of protecting the interests of the parties and third parties in the above-captioned matter against improper use and disclosure of confidential information submitted or produced in connection with this matter:

**IT IS HEREBY ORDERED THAT** this Protective Order Governing Confidential Material ("Protective Order") shall govern the handling of all Discovery Material, as hereafter defined.

1. As used in this Order, "confidential material" shall refer to any document or portion thereof that contains privileged, competitively sensitive information, or sensitive personal information. "Sensitive personal information" shall refer to, but shall not be limited to, an individual's Social Security number, taxpayer identification number, financial account number, credit card or debit card number, driver's license number, state-issued identification number, passport number, date of birth (other than year), and any sensitive health information identifiable by individual, such as an individual's medical records. "Document" shall refer to any discoverable writing, recording, transcript of oral testimony, or electronically stored information in the possession of a party or a third party. "Commission" shall refer to the Federal Trade Commission ("FTC"), or any of its employees, agents, attorneys, and all other persons acting on its behalf, excluding persons retained as consultants or experts for purposes of this proceeding.

2. Any document or portion thereof submitted by a respondent or a third party during a Federal Trade Commission investigation or during the course of this proceeding that is entitled to confidentiality under the Federal Trade Commission Act, or any regulation, interpretation, or precedent concerning documents in the possession of the Commission, as well as any information taken from any portion of such document, shall be treated as confidential material for purposes of this Order. The identity of a third party submitting such confidential material shall also be treated as confidential material for the purposes of this Order where the submitter has requested such confidential treatment.

3. The parties and any third parties, in complying with informal discovery requests, disclosure requirements, or discovery demands in this proceeding may designate any responsive document or portion thereof as confidential material, including documents obtained by them from third parties pursuant to discovery or as otherwise obtained.

4. The parties, in conducting discovery from third parties, shall provide to each third party a copy of this Order so as to inform each such third party of his, her, or its rights herein.

5. A designation of confidentiality shall constitute a representation in good faith and after careful determination that the material is not reasonably believed to be already in the public domain and that counsel believes the material so designated constitutes confidential material as defined in Paragraph 1 of this Order.

6. Material may be designated as confidential by placing on or affixing to the document containing such material (in such manner as will not interfere with the legibility thereof), or if an entire folder or box of documents is confidential by placing or affixing to that folder or box, the designation "CONFIDENTIAL-FTC Docket No. 9341" or any other appropriate notice that identifies this proceeding, together with an indication of the portion or portions of the document considered to be confidential material. Confidential information contained in electronic documents may also be designated as confidential by placing the designation "CONFIDENTIAL-FTC Docket No. 9341" or any other appropriate notice that identifies this proceeding, on the face of the CD or DVD or other medium on which the document is produced. Masked or otherwise redacted copies of documents may be produced where the portions deleted contain privileged matter, provided that the copy produced shall indicate at the appropriate point that portions have been deleted and the reasons therefor.

7. Confidential material shall be disclosed only to: (a) the Administrative Law Judge presiding over this proceeding, personnel assisting the Administrative Law Judge, the Commission and its employees, and personnel retained by the Commission as experts or consultants for this proceeding; (b) judges and other court personnel of any court having jurisdiction over any appellate proceedings involving this matter; (c) outside counsel of record for any respondent, their associated attorneys and other employees of their law firm(s), provided they are not employees of a respondent; (d) anyone retained to assist outside counsel in the preparation or hearing of this proceeding including consultants, provided they are not affiliated in any way with a respondent and have signed an agreement to abide by the terms of the protective order; and (e) any witness or deponent who may have authored or received the information in question.

8. Disclosure of confidential material to any person described in Paragraph 7 of this Order shall be only for the purposes of the preparation and hearing of this proceeding, or any appeal therefrom, and for no other purpose whatsoever, provided, however, that the Commission may, subject to taking appropriate steps to preserve the confidentiality of such material, use or disclose confidential material as provided by its Rules of Practice; sections 6(f) and 21 of the Federal Trade Commission Act; or any other legal obligation imposed upon the Commission.

9. In the event that any confidential material is contained in any pleading, motion, exhibit or other paper filed or to be filed with the Secretary of the Commission, the Secretary shall be so informed by the Party filing such papers, and such papers shall be filed *in camera*. To the extent that such material was originally submitted by a third party, the party including the materials in its papers shall immediately notify the submitter of such inclusion. Confidential material contained in the papers shall continue to have *in camera* treatment until further order of the Administrative Law Judge, provided, however, that such papers may be furnished to persons or entities who may receive confidential material pursuant to Paragraphs 7 or 8. Upon or after filing any paper containing confidential material, the filing party shall file on the public record a duplicate copy of the paper that does not reveal confidential material. Further, if the protection for any such material expires, a party may file on the public record a duplicate copy which also contains the formerly protected material.

10. If counsel plans to introduce into evidence at the hearing any document or transcript containing confidential material produced by another party or by a third party, they shall provide advance notice to the other party or third party for purposes of allowing that party to seek an order that the document or transcript be granted *in camera* treatment. If that party wishes *in camera* treatment for the document or transcript, the party shall file an appropriate motion with the Administrative Law Judge within 5 days after it receives such notice. Except where such an order is granted, all documents and transcripts shall be part of the public record. Where *in camera* treatment is granted, a duplicate copy of such document or transcript with the confidential material deleted therefrom may be placed on the public record.

11. If any party receives a discovery request in any investigation or in any other proceeding or matter that may require the disclosure of confidential material submitted by another party or third party, the recipient of the discovery request shall promptly notify the submitter of receipt of such request. Unless a shorter time is mandated by an order of a court, such notification shall be in writing and be received by the submitter at least 10 business days before production, and shall include a copy of this Protective Order and a cover letter that will apprise the submitter of its rights hereunder. Nothing herein shall be construed as requiring the recipient of the discovery request or anyone else covered by this Order to challenge or appeal any order requiring production of confidential material, to subject itself to any penalties for non-compliance with any such order, or to seek any relief from the Administrative Law Judge or the Commission. The recipient shall not oppose the submitter's efforts to challenge the disclosure of confidential material. In addition, nothing herein shall limit the applicability of Rule 4.11(e) of the Commission's Rules of Practice, 16 CFR 4.11(e), to discovery requests in another proceeding that are directed to the Commission.

12. At the time that any consultant or other person retained to assist counsel in the preparation of this action concludes participation in the action, such person shall return to counsel all copies of documents or portions thereof designated confidential that are in the possession of such person, together with all notes, memoranda or other papers containing confidential information. At the conclusion of this proceeding, including the exhaustion of judicial review, the parties shall return documents obtained in this action to their submitters, provided, however, that the Commission's obligation to return documents shall be governed by the provisions of Rule 4.12 of the Rules of Practice, 16 CFR 4.12.

13. The provisions of this Protective Order, insofar as they restrict the communication and use of confidential discovery material, shall, without written permission of the submitter or further order of the Commission, continue to be binding after the conclusion of this proceeding.

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of  INTEL CORPORATION, a corporation	) ) ) ) ) ) ) ) )	DOCKET NO. 9341  PUBLIC DOCUMENT
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**PROOF OF SERVICE**

I, David Emanuelson, hereby certify that on March 11, 2010 I caused a copy of the documents listed below to be served via registered mail on Hewlett-Packard Company c/o Kristofor Henning, Esq., Morgan, Lewis & Bockius LLP, 1701 Market Street, Philadelphia, PA 19103-2921, [khenning@morganlewis.com](mailto:khenning@morganlewis.com), and by *e-mail* on each of the following: J. Robert Robertson ([rrobertson@ftc.gov](mailto:rrobertson@ftc.gov)); Kyle D. Andeer ([kandeer@ftc.gov](mailto:kandeer@ftc.gov)); Thomas H. Brock ([tbrock@ftc.gov](mailto:tbrock@ftc.gov)); Teresa Martin ([tmartin@ftc.gov](mailto:tmartin@ftc.gov)); and Melanie Sabo ([msabo@ftc.gov](mailto:msabo@ftc.gov)):

- (i) Subpoena Duces Tecum issued to Hewlett-Packard Company on behalf of Intel Corporation, including its Exhibit A and Exhibit B;
- (ii) the Protective Order entered in this matter; and
- (iii) this Proof of Service.

HOWREY LLP




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David Emanuelson  
 1299 Pennsylvania Ave NW  
 Washington, DC 20004  
 Phone: (202) 383-6923  
 Fax: (202) 383-6610  
[emanuelsond@howrey.com](mailto:emanuelsond@howrey.com)

*Attorney for Intel Corporation*

Dated March 11, 2010

**EXHIBIT C**

April 19, 2010

VIA E-MAIL

Kristofor Henning  
Morgan, Lewis & Bockius LLP  
1701 Market St.  
Philadelphia, PA 19103-2921

**Re: FTC Docket No. 9341: Intel Subpoena to Hewlett Packard**

Dear Kris:

This letter is in regards to Intel's Subpoena *Duces Tecum*, served upon Hewlett Packard ("HP") on March 19, 2010. It is a continuation of our discussions toward agreement on a timely and cost-effective production through the use search term protocols to be run against a selection of finite custodians. As you requested, this letter constitutes our proposal for the selection of custodians, with the search term protocols to be agreed upon once the custodians are identified.

As a threshold matter, we believe that any request relating to communications with the FTC (see Requests 1-2, 3-6) should be considered corporate requests and not limited by individual custodians or search terms. We request that HP produce a privilege log of any documents it withholds on the basis of privilege, as well as any documents it withheld, clawed back, or redacted in the *AMD vs. Intel* litigation in the federal district of Delaware ("Delaware litigation").

Regarding the remaining requests, Intel's subpoena can be divided into two parts: (a) requests relating to microprocessor competition and pricing; and (b) requests relating to interoperability between microprocessors and chipsets/graphics.

For the microprocessor competition and pricing issues, Intel would like to propose specific custodians who we believe possess information most relevant to our case. These custodians can be separated into two categories: (1) those whose files were produced in the Delaware litigation; and (2) those whose files have not yet been produced. These individuals are listed below. As we are mindful that HP should not duplicate efforts to produce documents that it already produced in the Delaware litigation, we propose that searches of documents from custodians in the first category are limited to the date of the discovery cutoff document in the Delaware litigation, which was either June 27, 2006 or June 27, 2005, depending on the custodian.



## Delaware Custodians

Mark Hurd (June 27, 2006 cutoff)  
Shane Robison (June 27, 2006 cutoff)  
Todd Bradley (June 27, 2006 cutoff)  
Ted Clark (June 27, 2006 cutoff)  
Scott Stallard (June 27, 2005 cutoff)  
Kevin Frost (June 27, 2005 cutoff)  
Jeff Groudan (June 27, 2005 cutoff)

## Custodians With No Date Limitation

Joseph Lee  
Dan Forlenza  
Margaret Franco  
Paul Miller  
Bob Maus  
David Donatelli  
Todd Kruse  
Michael Winkler  
Michael Capellas  
Jackie Gross  
Adrian Crisan  
Any other HP employee holding the position of AMD Alliance Manager

We are happy to discuss this list of custodians if HP believes that there are other custodians who possess more relevant knowledge regarding Intel's microprocessor requests than the ones we have identified. Specifically, if HP believes that there are other custodians who possess more relevant knowledge regarding HP negotiations and agreements with Intel and/or AMD for the purchase and pricing of microprocessors from January 1, 2006 to the present (see Request 10), we would like HP to identify them.

Regarding the chipsets and graphics issues, we propose that Intel and HP agree on the six most knowledgeable custodians regarding the below categories of topics:

- HP's GPU, integrated graphics, and chipsets purchases and sourcing strategies;
- Intel, AMD/ATI, and Nvidia roadmaps;
- The relationship between Intel and Nvidia, including the interoperability of the companies' products, and the effect of changes to Intel's roadmaps;
- HP's use of Nvidia's Scalable Link Interface or AMD/ATI's CrossFire Technology;

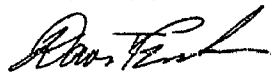
- HP's evaluation of, and communications regarding, the integration of either GPUs or the memory controller on the microprocessor or in the same package with the microprocessor;
- HP's evaluation of, and communications regarding, Intel's CSI, QPI, PCIe, and DMI interfaces;
- Nvidia's ability to supply chipsets to HP without a license to make chipsets compatible with Intel's DMI-bus;
- HP's evaluation of, and communications regarding, Nvidia's Compute Unified Device Architecture ("CUDA"); and
- Bundled or kit pricing of AMD microprocessors with any chipset or graphics hardware.

We would like to discuss the selection of custodians regarding the chipsets and graphics issues once HP has identifies who it believes are the most knowledgeable custodians. Our internal investigation has revealed that potential custodians may include Walter Fry, Caldwell Crosswy, Daniel Hong, Craig Walrath, and Phil Mckinney, as these individuals have been identified to us as product designers within HP's personal systems group.

Finally, Intel understands that the FTC has taken informal discovery of employees of other third party OEMs through interviews. To the extent that the FTC has interviewed any HP employees or former HP employees, Intel requests that HP identify those employees to Intel and include them as custodians (if not already included on the above list).

Please feel free to call me any time to discuss this letter or any other issues that relate to our litigation.

Very truly yours,



David T. Emanuclson

Cc: Joe Ostoyich  
Eddie Ferrer

# **EXHIBIT D**

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

In the Matter of  
INTEL CORPORATION,  
Respondent.

Docket No. 9341

PUBLIC DOCUMENT

**NON-PARTY HEWLETT-PACKARD COMPANY'S OBJECTIONS AND RESPONSES  
TO SUBPOENA *DUCES TECUM* SERVED BY INTEL CORPORATION**

Pursuant to Rule 3.34(c) of the Federal Trade Commission's Rule of Practice, 16 C.F.R. § 3.34(c), in further support of its motion to quash, non-party Hewlett-Packard Company ("HP") respectfully sets forth its objections and responses to the subpoena *duces tecum* ("Subpoena") served on it by Intel Corporation, in this proceeding.

**SPECIFIC OBJECTIONS APPLICABLE TO ALL DOCUMENT REQUESTS**

1. HP objects to the Subpoena on the ground that it is overbroad and, therefore, attempts to impose an undue burden and expense on non-party HP in violation of applicable rules of practice of the Federal Trade Commission ("FTC"). The Subpoena is overbroad because Intel can obtain much, if not all, of the information necessary to defend this lawsuit, subject to the appropriate confidentiality restrictions, directly from the FTC (to the extent that information is determined to be appropriately discoverable). Therefore, there is no need to burden non-party HP with the Subpoena, if ever, until Intel receives the FTC's document productions and can determine what, if any, additional information they claim they need from non-party HP. The Subpoena is also overbroad and unduly burdensome because Intel has much, if not all, of the information necessary to defend this lawsuit, already in its possession as a result of documents previously produced by HP and AMD in a prior lawsuit. Intel can review these documents without the need to burden and harass non-party HP.

2. HP objects to the Subpoena insofar as it purports to seek the production of confidential documents protected from disclosure pursuant to the Federal Trade Commission Act and the Rules of Practice and regulations promulgated thereto including, but not limited to, 16 C.F.R. § 4.10 et. seq. HP further objects to the Subpoena insofar as it purports to seek the production of confidential, proprietary documents produced by HP subject to a written confidentiality agreement and non-waiver agreement.

3. HP objects to the Subpoena to the extent that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action and imposes an undue burden and expense on non-party HP.

4. HP objects to the Subpoena as being an improper attempt to obtain HP's confidential, proprietary, and trade secret information. In order to properly protect its confidential, proprietary and trade secret information, HP will produce information under the Protective Order that has been entered by the FTC which covers any information HP might later produce in response to the Subpoena.

5. HP objects to the Subpoena to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties.

6. HP objects to the Subpoena to the extent that it seeks to impose requirements on HP in excess of, or inconsistent with, the requirements of the applicable Rules of Practice of the FTC and/or the Federal and Local Rules of Civil Procedure or by Court Order. To the extent that HP is required to produce responsive, non-privileged documents, HP will produce them in accordance with applicable Rules of Practice of the FTC and/or Federal Rule of Civil Procedure 45(d)(1). As such, in accordance with 16 C.F.R. § 3.37 of the Rules of Practice of the FTC and/or with Federal Rule of Civil Procedure 45(d)(1), HP will produce, to the extent it is required, electronically stored information "in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms," will not produce the same "electronically stored information in more than one form" and will not produce electronically stored

information "from sources that [HP] identifies as not reasonably accessible because of undue burden or cost."

7. HP objects to the Subpoena to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents.

8. HP objects to the Subpoena to the extent that it is so vague, ambiguous, or incomprehensible, or contains undefined terms such that HP cannot determine what information is sought and therefore cannot provide a meaningful response. HP further objects to the Subpoena to the extent that it is so vague, ambiguous and/or overbroad that the burden of responding to the discovery far outweighs its possible benefit to Intel. As such, compliance with the Subpoena would be unreasonably burdensome and expensive for HP and/or would cause HP to undertake an unreasonable investigation.

9. HP objects to the Subpoena to the extent that it seeks materials equally available to Intel through public sources or records on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC and/or the Federal Rules of Civil Procedure.

10. HP objects to the Subpoena on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced materials to Intel in other litigations.

11. HP objects to the Subpoena to the extent that it seeks information that is not in HP's possession, custody or control.

12. HP objects to the Subpoena to the extent that it seeks information that is obtainable from sources that are more convenient, less burdensome and/or less expensive than HP.

13. HP objects to any implications and to any explicit or implicit characterization of facts, events, circumstances, or issues in the Subpoena. If HP later produces documents in response to the Subpoena, such production is not intended to indicate that HP agrees with any implication or any explicit or implicit characterization of facts, events, circumstances, or issues in the Subpoena or that such implications or characterizations are relevant to this action.

14. HP objects to producing any information or documents in response to the Subpoena without an agreement from Intel or an order from the Court requiring Intel to pay HP's costs and attorneys' fees incurred in responding to the Subpoena.

15. By responding or objecting to the Subpoena, HP does not admit or imply that it has documents or information responsive to the Subpoena.

16. HP objects to the time period covered by the Subpoena as overly broad and unduly burdensome.

17. HP incorporates the foregoing Specific Objections Applicable to All Document Requests into each and every objection and response set forth below, regardless of whether they are referred to therein. In addition, HP reserves the right to amend, supplement and/or modify these objections and responses in accordance with the applicable Rules of Practice of the FTC and/or the Federal Rules of Civil Procedure.

Subject to and without waiver of the foregoing Specific Objections Applicable to All Document Requests, HP objects and responds to each Document Request in the Subpoena as follows:

### Specific Objections and Responses to Document Requests

**1. All DOCUMENTS that Hewlett-Packard (hereinafter, "HP") has shown to, provided to, or received from, the Federal Trade Commission or the New York Attorney General relating to INTEL, AMD, or any RELEVANT PRODUCT.**

#### OBJECTION AND RESPONSE:

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP objects to the Document Request insofar as it purports to seek the production of confidential documents protected from disclosure pursuant to the Federal Trade Commission Act and the Rules of Practice and regulations promulgated thereto including, but not limited to, 16 C.F.R. § 4.10 et. seq. HP further objects to this Document Request insofar as it purports to seek the production of confidential documents submitted to, received from, related to and/or reflecting communications with governmental bodies and/or agencies related to and/or in connection with a governmental investigative proceeding on the grounds that such documents are protected from disclosure pursuant to the Federal Trade Commission Act and the Rules of Practice and regulations promulgated thereto as well as the Federal Rules of Civil Procedure. HP further objects to this Document Request insofar as it purports to seek the production of confidential, proprietary documents produced by HP subject to a written confidentiality agreement and non-waiver agreement. HP further objects to this Document Request insofar as it purports to seek the production of confidential documents submitted to and/or received from governmental bodies and/or agencies pursuant to a written confidentiality agreement and non-waiver agreement in connection with a governmental investigation. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary,



and trade secret information. HP further objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request on the ground that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects on the ground that the Document Request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "or any Relevant Product." HP further objects to this Document Request insofar as it purports to impose a duty on HP to search for and produce documents shown to, provided to or received from the New York Attorney General ("NYAG") on the ground it seeks to impose undue burden and expense on HP because, by definition, this Document Request seeks documents that are within NYAG's possession, custody or control and Intel is currently a party to litigation with the NYAG. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from the NYAG (a party to that litigation) without the need to burden and harass non-party HP. HP objects further to this Document Request on the ground that it seeks to impose undue burden and expense on HP insofar as it seeks the production of documents that are within FTC's possession, custody or control. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from the FTC (a party to this litigation)

without the need to burden and harass non-party HP.

**2. All DOCUMENTS relating to or constituting any communication between HP and representatives of the Federal Trade Commission or the New York Attorney General relating to Intel, AMD, or any RELEVANT PRODUCT, including but not limited to: (i) communications between HP and the Federal Trade Commission relating to the merger between HP and COMPAQ; or (ii) communications between HP and the Federal Trade Commission regarding commercial desktop negotiations between HP and Intel in 2002.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP objects to the Document Request insofar as it purports to seek the production of confidential documents protected from disclosure pursuant to the Federal Trade Commission Act and the Rules of Practice and regulations promulgated thereto including, but not limited to, 16 C.F.R. § 4.10 et. seq. HP further objects to this Document Request insofar as it purports to seek the production of confidential documents submitted to, received from, related to and/or reflecting communications with governmental bodies and/or agencies related to and/or in connection with a governmental investigative proceeding on the grounds that such documents are protected from disclosure pursuant to the Federal Trade Commission Act and the Rules of Practice and regulations promulgated thereto as well as the Federal Rules of Civil Procedure. HP further objects to this Document Request insofar as it purports to seek the production of confidential, proprietary documents produced by HP subject to a written confidentiality agreement and non-waiver agreement. HP further objects to this Document Request insofar as it purports to seek the production of confidential documents submitted to and/or received from governmental bodies and/or agencies pursuant to a written confidentiality agreement and non-waiver agreement in connection with a governmental investigation. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client

privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request on the ground that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "or any Relevant Product." HP objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request insofar as it purports to impose a duty on HP to search for and produce documents relating to or constituting any communication between HP and the NYAG on the ground it seeks to impose undue burden and expense on HP because, by definition, this Document Request seeks documents that are within the NYAG's possession, custody or control and Intel is currently a party to a litigation with the NYAG. If the documents sought in this

Document Request are determined to be appropriately discoverable, then Intel can obtain them from the NYAG (a party to that litigation) without the need to burden and harass non-party HP. HP objects further to this Document Request on the ground that it seeks to impose undue burden and expense on HP insofar as it seeks the production of documents that are within FTC's possession, custody or control. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from the FTC (a party to this litigation) without the need to burden and harass non-party HP. HP further objects to this Document Request to the extent that it is so overbroad that the burden of responding to the discovery far outweighs its possible benefit to Intel. As such, compliance with the Document Request in the Subpoena would be unreasonably burdensome and expensive for HP and/or would cause HP to undertake an unreasonable investigation.

**3. All DOCUMENTS requested of HP in the March 8, 2010 subpoena *duces tecum* issued by the Federal Trade Commission.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP objects to the Document Request insofar as it purports to seek the production of confidential documents protected from disclosure pursuant to the Federal Trade Commission Act and the Rules of Practice and regulations promulgated thereto including, but not limited to, 16 C.F.R. § 4.10 et. seq. HP further objects to this Document Request insofar as it purports to seek the production of confidential, proprietary documents produced subject to a written confidentiality agreement and non-waiver agreement. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other

applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request on the ground that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP objects further to this Document Request on the ground that it seeks to impose undue burden and expense on HP insofar as it seeks the production of documents that are within FTC's possession, custody or control. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from the FTC (a party to this litigation) without the need to burden and harass non-party HP.

**4. All DOCUMENTS that were marked as Exhibits in the Federal Trade Commission's deposition of Mike Winkler in 2003.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth

in full herein. HP objects to the Document Request insofar as it purports to seek the production of confidential documents protected from disclosure pursuant to the Federal Trade Commission Act and the Rules of Practice and regulations promulgated thereto including, but not limited to, 16 C.F.R. § 4.10 et. seq. HP further objects to this Document Request insofar as it purports to seek the production of confidential, proprietary documents produced subject to a written confidentiality agreement and non-waiver agreement. HP further objects to this Document Request insofar as it purports to seek the production of confidential documents submitted to, received from, related to and/or reflecting communications with governmental bodies and/or agencies related to and/or in connection with a governmental investigative proceeding on the grounds that such documents are protected from disclosure pursuant to the Federal Trade Commission Act and the Rules of Practice and regulations promulgated thereto as well as the Federal Rules of Civil Procedure. HP further objects to this Document Request insofar as it purports to seek production of HP's confidential, proprietary and trade secret information. HP further objects to this Document Request as overly broad and unduly burdensome as it seeks documents that are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP objects further to this Document Request on the ground that it seeks to impose undue burden and expense on HP insofar as it seeks the production of documents that are within FTC's possession, custody or control. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from the FTC (a party to this litigation) without the need to burden and harass non-party HP.

**5. All internal DOCUMENTS relating to any analysis or communication regarding any relief outlined by the Federal Trade Commission in the Notice of Contemplated Relief portion of the Complaint in *In the Matter of Intel Corporation*, FTC Docket No. 9341,**

attached hereto as Exhibit B.

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to the Document Request insofar as it purports to seek the production of confidential documents protected from disclosure pursuant to the Federal Trade Commission Act and the Rules of Practice and regulations promulgated thereto including, but not limited to, 16 C.F.R. § 4.10 et. seq. HP further objects to this Document Request insofar as it purports to seek the production of confidential, proprietary documents produced by HP subject to a written confidentiality agreement and non-waiver agreement. HP further objects to this Document Request insofar as it purports to seek the production of confidential documents submitted to, received from, related to and/or reflecting communications with governmental bodies and/or agencies related to and/or in connection with a governmental investigative proceeding on the grounds that such documents are protected from disclosure pursuant to the Federal Trade Commission Act and the Rules of Practice and regulations promulgated thereto as well as the Federal Rules of Civil Procedure. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to this Document Request as overly broad and unduly burdensome insofar as

it seeks documents that are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects on the ground that it is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the Document Request. HP also objects to this Document Request on the ground that it purports to impose an obligation on HP, a non-party, to make a greater investigation and consult more documents than is contemplated by the Rules of Practice of the FTC and/or the Federal Rules of Civil Procedure.

**6. All DOCUMENTS relating to the negotiation and execution of the 2002 Memorandum of Understanding executed between HP and AMD, including, but not limited to, all DOCUMENTS relating to or constituting any communications between HP or any of its representatives or agents and representatives of the Federal Trade Commission relating to the negotiation and execution of the 2002 Memorandum of Understanding between HP and AMD.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP objects to the Document Request insofar as it purports to seek the production of confidential documents protected from disclosure pursuant to the Federal Trade Commission Act and the Rules of Practice and regulations promulgated thereto including, but not limited to, 16 C.F.R. § 4.10 et. seq. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent, HP does not waive nor intend to waive any privilege or



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immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents that are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP also objects to this Document Request on the ground that it purports to impose an obligation on HP, a non-party, to make a greater investigation and consult more documents than is contemplated by the Federal Rules of Civil Procedure. HP objects further to this Document Request on the ground that it seeks to impose undue burden and expense on HP because, by definition, this Document Request seeks documents that are within FTC's possession, custody or control. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from the FTC (a party to this litigation) without the need to burden and harass non-party HP. HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on HP insofar as it seeks the production of documents already within the possession, custody and control of Intel, a party to this litigation, including documents previously produced by HP or AMD to Intel. Intel can review these documents without the need

to burden and harass non-party HP.

**7. All DOCUMENTS relating to the 2004 Opteron Transaction Agreement between HP and AMD, including, but not limited to, all DOCUMENTS relating to negotiations between HP and AMD.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents that are not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it

purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request on the ground that it is unduly burdensome and beyond the scope of a non-party's duty to respond to discovery under the Rules of Practice of the FTC and/or the Federal Rules of Civil Procedure insofar as it purports to impose a burden on HP to produce documents from persons and entities over whom it has no power or control. HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on HP insofar as it seeks the production of documents already within the possession, custody and control of Intel, a party to this litigation, including documents previously produced by HP or AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**8. All DOCUMENTS relating to AMD's 2004 Market Leadership Proposal to HP, including, but not limited to, all DOCUMENTS relating to HP's evaluation of AMD's proposal.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the

Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as overly broad in that it does not limit the scope of the request to the time frame relevant to the action. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "HP's evaluation." HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on HP insofar as it seeks the production of documents already within the possession, custody and control of Intel, a party to this litigation, including documents previously produced by HP or AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**9. All DOCUMENTS relating to the actual or proposed corporate agreement between AMD and HP, codenamed NuBalance, including, but not limited to, all DOCUMENTS relating to HP's evaluation of AMD's proposal.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific

Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as overbroad in that it does not limit the scope of the request to a time frame relevant to the action. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "HP's evaluation," and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding

subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request on the ground that it is unduly burdensome and beyond the scope of a non-party's duty to respond to discovery under the Rules of Practice of the FTC and/or the Federal Rules of Civil Procedure insofar as it purports to impose a burden on HP to produce documents from persons and entities over whom it has no power or control. HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on HP insofar as it seeks the production of documents already within the possession, custody and control of Intel, a party to this litigation, including documents previously produced by HP or AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**10. From January 1, 2006 to present, all DOCUMENTS relating to any agreement or potential agreement between HP and AMD, including, but not limited to, all DOCUMENTS regarding the terms of any agreement between HP and AMD, the negotiations of such agreements, and HP's evaluation of such AMD's proposals and any resulting agreements.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege

or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrases "potential agreement" and "HP's evaluation" and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request on the ground that it is beyond the scope of a non-party's duty to respond to discovery under the Rules of Practice of the FTC and/or the Federal Rules of Civil Procedure insofar as it purports to impose a burden on HP to produce documents from persons and entities over whom it has no power or control. HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on HP insofar as it seeks the production of documents already within the possession, custody and control of Intel, a party to this litigation, including documents previously produced by HP or AMD to Intel. Intel can review these documents without the need to burden and harass



non-party HP.

**11. From January 1, 2006 to the present, all DOCUMENTS relating to or constituting communications between HP and AMD concerning the sale of MICROPROCESSORS or GPUs from AMD or Intel.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it

purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request on the ground that it is beyond the scope of a non-party's duty to respond to discovery under the Rules of Practice of the FTC and/or the Federal Rules of Civil Procedure insofar as it purports to impose a burden on HP to produce documents from persons and entities over whom it has no power or control. HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on HP insofar as it seeks the production of documents already within the possession, custody and control of Intel, a party to this litigation, including documents previously produced by HP or AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**12. From January 1, 2006 to present, all DOCUMENTS relating to competitive assessments of INTEL, AMD, or VIA, including, but not limited to, market shares, capacity, financial analyses or assessments, prices, marketing, pricing, discounting, products, technology, roadmaps, support, product supply, research and development strategies, or MICROPROCESSOR performance, including but not limited to any internal benchmarks, workloads, or tests developed or used to compare MICROPROCESSORS.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege

or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request on the ground that it is beyond the scope of a non-party's duty to respond to discovery insofar as it purports to impose a burden on HP to produce documents from persons and entities over whom it has no power or control. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on HP insofar as it seeks the production of documents already within the possession, custody and control of Intel, a party to this litigation, including documents previously produced by HP to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**13. All DOCUMENTS relating to competitive assessments of NVIDIA, including, but not limited to, market shares, capacity, financial analyses or assessments, prices, marketing, pricing, discounting, or research and development strategies or GPU performance.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific

Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request insofar as it purports to seek documents outside of HP's possession, custody and control. HP objects further to this Document Request as overly broad and unduly burdensome insofar as it is not limited to the timeframe relevant to this action, or to any specific products at issue in this action. HP further objects to this Document Request insofar as it purports to impose a duty on HP to search for and produce documents relating to or constituting competitive assessments of NVIDIA on the ground it seeks to impose undue burden and expense on HP to the extent that it seeks the production of documents that are within NVIDIA's possession, custody or control. Intel is currently a party to litigation with NVIDIA.

If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from NVIDIA (a party to that litigation) without the need to burden and harass non-party HP.

**14. All DOCUMENTS relating to the ability of any RELEVANT PRODUCT made or sold by NVIDIA, ATI, or VIA to interoperate with any INTEL or AMD RELEVANT PRODUCT.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further

objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request as unduly burdensome and overbroad insofar as it does not limit the scope of the request to a time frame relevant to the action. HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on HP to the extent that it seeks the production of documents already within the possession, custody and control of Intel, a party to this litigation, including documents previously produced by HP to Intel. Intel can review these documents without the need to burden and harass non-party HP. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "any Relevant Product" and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. By way of further answer, HP states that it did not and does not manufacture the products made by NVIDIA, ATI, or VIA and, therefore, if Intel seeks discoverable information about items made by these companies, it should obtain that information from NVIDIA, ATI, or VIA, who manufactured those products.

**15. All DOCUMENTS from January 1, 1999 to the present that constitute, refer, or relate to HP's evaluation of the performance of any MICROPROCESSOR in connection with its purchasing decisions or award of design wins, including, but not limited to, all documents relating to HP's internal testing or benchmarking or performance or the use of externally developed benchmarks.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific

Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "HP's evaluation" and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to this Document

Request as overly broad in that it seeks documents regarding "any MICROPROCESSOR." HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on HP insofar as it seeks the production of documents already within the possession, custody and control of Intel, a party to this litigation, including documents previously produced by HP to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**16. All DOCUMENTS relating to HP's use of any RELEVANT BENCHMARK in any communication to any customer, MICROPROCESSOR manufacturer, or any other third party, including, but not limited, ("sic") to HP's decision to use or not use any RELEVANT BENCHMARK, the method of obtaining the final form of any RELEVANT BENCHMARK, the compilation of any RELEVANT BENCHMARK initially distributed as source code such as Linpack and SPEC, and any disclaimers or other language accompanying the RELEVANT BENCHMARK.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP objects to the Document Request to the extent that it seeks



information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it is not limited to the time frame relevant to this action. HP further objects to this Document Request as overly broad in that it seeks documents regarding "any customer, MICROPROCESSOR manufacturer, or any other third party," without limitation to the parties and products at issue in this action. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrases "relevant benchmark initially distributed as source code such as " and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to this Document Request as vague, unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**17. All DOCUMENTS relating to INTEL's or any other MICROPROCESSOR manufacturer's use of any RELEVANT BENCHMARK in any communication to HP, including, but not limited to, any disclaimers or other language accompanying the**

**benchmark.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad in that it seeks documents regarding "any other MICROPROCESSOR manufacturer," without limitation to the parties and products at issue in this action. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request as overly broad in that it is not limited to the time frame relevant to this action. HP further objects to this Document Request as overly broad, unduly

burdensome and vexatious insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as vague, unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP to Intel.

**18. All DOCUMENTS relating to HP's participation in the development of any benchmark that can be used to assess MICROPROCESSOR performance or functionality, including, but not limited to, any feedback or other communication provided by HP to any entity that issued any such benchmark.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request on the grounds that it subjects HP to

unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request as overly broad in that it seeks documents regarding "any benchmark" and "any entity" without limitation to the parties and products at issue in this action. HP further objects to this Document Request as overly broad in that it is not limited to the time frame relevant to this action. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as vague, unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**19. All DOCUMENTS relating to HP's assessment of AMD's 64-bit technology, including, but not limited to, all DOCUMENTS relating to HP's view of the impact of AMD's introduction of 64-bit technology on Intel's or HP's investment in the Itanium technology.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or

protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad in that it is not limited to the time frame relevant to this action. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "HP's assessment,," and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request as overly broad, and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as vague, unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP and AMD to Intel. Intel can review these documents without the need to burden and harass non-

party HP.

**20. All DOCUMENTS relating to HP's decision to purchase AMD MICROPROCESSORS for integration into HP desktops and notebooks for the consumer market segment, including, but not limited to, all DOCUMENTS relating to HP's assessment of AMD's consumer desktop and notebook roadmaps and all DOCUMENTS relating to HP's assessment of the purchasing preferences of consumer customers.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad in that it is not limited to the time frame relevant to this action. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "HP's assessment" and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to the Document

Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as vague, unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP and AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**21. All DOCUMENTS relating to HP's decision to purchase AMD MICROPROCESSORS for integration into HP desktops and notebooks for the commercial market segment (including both the large enterprise segment or the small and medium business segment), including, but not limited to, all DOCUMENTS relating to HP's assessment of AMD's corporate desktop and notebook roadmaps, the platform stability (including image stability) of Intel and AMD platform, the reliability of CHIPSETS for Intel and AMD platforms, and the purchasing preferences of corporate customers.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or

protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad in that it is not limited to the time frame relevant to this action. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "HP's assessment" and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP and AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP. By way of further answer,



HP states that it does not manufacture "CHIPSETS for INTEL and AMD platforms," and if Intel seeks documents related to these products, Intel can seek such documents from the manufacturer of the "CHIPSETS."

**22. All DOCUMENTS relating to HP's assessment of the relative battery life of notebook PCs with Intel or AMD MICROPROCESSORS, including, but not limited to, all documents relating to the impact of such battery life on HP's purchasing decisions.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek the production of HP's confidential, proprietary, and trade secret information. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing

pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad in that it is not limited to the time frame relevant to this action. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "HP's assessment" and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP and AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**23. All DOCUMENTS relating to HP's decision to purchase AMD MICROPROCESSORS for integration into HP servers, including, but not limited to, all DOCUMENTS relating to HP's assessment of AMD's server roadmaps and all DOCUMENTS relating to HP's assessment of the purchasing preferences of server customers.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce

only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad in that it is not limited to the time frame relevant to this action. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "HP's assessment" and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP and AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**24. From January 1, 2006 to present, all DOCUMENTS relating to HP's MICROPROCESSOR and GPU or integrated graphics sourcing strategies and purchases,**

**including, but not limited, ("SIC") all DOCUMENTS presented to the HP Board of Directors or HP executive committee regarding its assessment of INTEL, AMD, NVIDIA, ATI, and VIA performance, roadmaps, or assessment of the success of HP's MICROPROCESSOR and GPU or integrated graphics sourcing strategies.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced

voluminous materials to Intel in other litigations. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP, NVIDIA, or AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**25. All DOCUMENTS from January 1, 1999 to the present relating to the effect of any agreements between HP and INTEL for the purchase of ANY RELEVANT PRODUCT on the total number of computer or computer systems sold by HP and the profits earned by HP on those sales.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary and trade secret information. HP further objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad and unduly burdensome

insofar as it seeks irrelevant documents that are not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects on the ground that the request is unduly burdensome, vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "the effect of" and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**26. From June 1, 2006 to the present, all DOCUMENTS relating to any delay in the launch of any AMD or VIA MICROPROCESSOR ("SIC").**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP objects to the Document

Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary and trade secret information. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents that are outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP or AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP. By way of further answer, HP states that it did not and does not manufacture "AMD OR VIA MICROPROCESSOR" and, therefore, if Intel seeks discoverable information about these items, it should seek to obtain that information from AMD or VIA.

**27. From June 1, 2006 to the present, all DOCUMENTS relating to any shortage in supply of any AMD or VIA MICROPROCESSOR.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific

Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary and trade secret information. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of



Intel, a party to this action, including documents previously produced by HP or AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP. By way of further answer, HP states that it did not and does not manufacture "AMD OR VIA MICROPROCESSOR" and, therefore, if Intel seeks discoverable information about these products, it should obtain that information from AMD or VIA.

**28. From June 1, 2006 to the present, all DOCUMENTS relating to any testing by HP of any AMD MICROPROCESSOR or system using an AMD MICROPROCESSOR, including but not limited to any test relating to performance or battery life.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about

which HP has already produced voluminous materials to Intel in other litigations. HP further objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP or AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**29. From June 1, 2006 to the present, all DOCUMENTS comparing the performance of a system using an AMD MICROPROCESSOR with the performance of a system using an INTEL MICROPROCESSOR.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose

an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request insofar as it seeks documents outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP or AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP. By way of further answer, HP states that it did not and does not manufacture "AMD MICROPROCESSOR" and, therefore, if Intel seeks discoverable information about this product, it should obtain that information from AMD.

**30. From June 1, 2006 to the present, all DOCUMENTS relating to HP's consideration or analysis of any manageability or security solution from Intel or AMD.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or

protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "HP's consideration or analysis," and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP and AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**31. From June 1, 2006 to the present, all DOCUMENTS relating to any differences in end customers' willingness to pay for AMD-based HP systems and INTEL-based HP systems,**

**including, but not limited to, all documents relating to any differences in the prices of Intel-based ("sic") and AMD-based computers sold by HP.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary and trade secret information. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "customers' willingness," and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects

about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request on the ground that the Document Request is burdensome insofar as it seeks documents outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP or AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**32. From June 1, 2006 to the present, all DOCUMENTS comparing INTEL's and AMD's manufacturing process technologies.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary and trade secret information. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose

an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request insofar as it seeks the production of documents outside of HP's possession, custody and control. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP or AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP. By way of further answer, HP states that it did not and does not develop "INTEL's and AMD's manufacturing process technologies" and, therefore, if Intel seeks discoverable information about this technology, it already has it in its possession, or should obtain that information from AMD.

**33. From June 1, 2006 to the present, all DOCUMENTS relating to any concerns about the acceptance of AMD-based systems among HP's commercial customers.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks

information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary and trade secret information. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request insofar as it seeks the production of documents outside of HP's possession, custody and control. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "acceptance of AMD-based systems," and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks the production of documents



already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP or AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**34. All DOCUMENTS relating to any study or analysis performed by BAIN & COMPANY of MICROPROCESSOR pricing by INTEL and/or AMD from January 1, 2005 through September 30, 2006.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary and trade secret information. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing

pursuant to confidentiality objections by third parties. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents outside of HP's possession, custody and control. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP or AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**35. All DOCUMENTS relating to the success, performance, sales, customer acceptance or satisfaction, or lack of any of the foregoing, of any HP computer system using a VIA MICROPROCESSOR.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek the production of HP's confidential, proprietary,

and trade secret information. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents that are outside of HP's possession, custody and control. HP further objects to the Document Request as overly broad insofar as it is not limited to the time frame relevant to this action. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "success," "performance," and "customer acceptance or satisfaction," and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP to Intel. Intel can review these documents without the need to burden and harass non-party HP.

**36. All DOCUMENTS relating or referring to the potential use of NVIDIA's Scalable Link Interface (SLI) or AMD/ATI's CrossFire technology in or with any HP products including, but not limited to, any restrictions on requirements imposed on HP regarding such use or any discussions regarding licensing or enabling SLI or CrossFire.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents that are outside of HP's possession, custody and control. HP further objects to this Document Request as overly broad in that it is not limited to the time frame relevant to this action. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the

claim or defense of any party to this action. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrases "potential use" and "restrictions on requirements imposed on HP," and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to this Document Request as unduly burdensome, vexatious and seeking to impose an unnecessary expense on HP to the extent it seeks the production of documents already in the possession, custody and control of Intel, including documents previously produced by HP or AMD to Intel. HP further objects to this Document Request insofar as it purports to impose a duty on HP to search for and produce documents that are within NVIDIA's possession, custody or control as Intel is currently a party to litigation with NVIDIA. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from NVIDIA without the need to burden and harass non-party HP. By way of further answer, HP states that it did not and does not manufacture "NVIDIA's Scalable Link Interface (SLI) or AMD/ATI's CrossFire technology" and, therefore, if Intel seeks discoverable information about items made by these companies, it should obtain that information from NVIDIA or AMD, who manufactured those products.

**37. All DOCUMENTS regarding the Common System Interconnect ("CSI"/Quick Path Interconnect ("QPI"), Peripheral Component Interconnect Express ("PCIe"), and Direct Media Interface ("DMI") interfaces.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information

that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents outside of HP's possession, custody and control. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad in that it is not limited to the time frame relevant to this action. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks the production of documents already in the possession, custody and control of Intel, including documents previously produced by HP, NVIDIA or AMD to Intel. Intel can review these documents without the need to burden and harass non-party HP. By way of further answer, HP states that it did not and does not manufacture "the Common System Interconnect ("CSI")/Quick Path Interconnect ("QPI"), Peripheral Component Interconnect Express ("PCIe"), and Direct Media Interface ("DMI") interfaces," and, therefore, if Intel seeks discoverable information

about these items, it should obtain that information from the manufacturers of those products without the need to burden and harass non-party HP.

**38. All DOCUMENTS regarding INTEL's plans for development including, but not limited to, INTEL product roadmaps, INTEL product development schedules, INTEL projections regarding product releases, any changes to any Intel product roadmaps, and any communications with NVIDIA regarding changes to Intel product roadmaps.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as overbroad in that it does not limit the scope of the request to a time frame relevant to the action. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents

outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks documents already in the possession, custody and control of Intel. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "INTEL's plans," when such documents would be within Intel's possession, custody or control, and can be obtained by Intel without the need to burden or harass non-party HP.

**39. From June 1, 2006 to December 31, 2007, all DOCUMENTS constituting, relating to, or reflecting communications between NVIDIA and HP relating to INTEL's plans for product development including, but not limited to, INTEL product roadmaps; INTEL product development schedules; INTEL projections regarding product releases; and any changes to any INTEL product roadmaps, including, but not limited to, INTEL's use of CSI and/or DMI bus technology.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably



calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as unduly burdensome and vexatious insofar as it seeks the production documents already in the possession, custody and control of Intel. HP further objects to this Document Request as unduly burdensome insofar as it purports to impose a duty on HP to search for and produce documents that are within NVIDIA's possession, custody or control and Intel is currently a party to litigation with NVIDIA. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from NVIDIA without the need to burden and harass non-party HP.

**40. All DOCUMENTS regarding the relationship between Intel and NVIDIA, including, but not limited to, any attempts between Intel and NVIDIA to collaborate on the development of RELEVANT PRODUCTS.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to this

Document Request as overbroad in that it does not limit the scope of the request to a time frame relevant to the action. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome, vexatious and seeking to impose an unnecessary expense on non-party HP because, by definition, it seeks documents already in the possession, custody and control of Intel, and can be obtained by Intel without the need to burden or harass non-party HP. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "attempts between Intel and NVIDIA to collaborate," and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to this Document Request as unduly burdensome insofar as it purports to impose a duty on HP to search for and produce documents that are within NVIDIA's possession, custody or control and Intel is currently a party to litigation with NVIDIA. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from NVIDIA without the need to burden and harass non-party HP.

**41. All DOCUMENTS regarding any failure by NVIDIA to supply RELEVANT PRODUCTS on a schedule or in a manner promised.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth

in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overbroad in that it does not limit the scope of the request to a time frame relevant to the action. HP further objects to this Document Request as it seeks documents outside of HP's possession, custody and control. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "on a schedule or in a manner promised," without defining the parties to such a promise and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as unduly burdensome insofar as it purports to impose a duty on HP to search for and produce documents that are within NVIDIA's possession, custody or control and Intel is currently a party to litigation with NVIDIA. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them

from NVIDIA without the need to burden and harass non-party HP.

**42. All DOCUMENTS relating to NVIDIA's or AMD/ATI's roadmap and any changes to those roadmaps, including, but not limited to, any requests for confidential treatment of such information and/or that such information to be provided to Intel.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overbroad in that it does not limit the scope of the request to a time frame relevant to the action. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of

documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents outside of HP's possession, custody and control. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on non-party HP to the extent it seeks documents already in the possession, custody and control of Intel, including documents previously produced by HP, NVIDIA or AMD to Intel. HP further objects to this Document Request as unduly burdensome insofar as it purports to impose a duty on HP to search for and produce documents that are within NVIDIA's possession, custody or control and Intel is currently a party to litigation with NVIDIA. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from NVIDIA without the need to burden and harass non-party HP.

**43. All DOCUMENTS regarding integration of GPUs or a memory controller in the MICROPROCESSOR or in the same package with the MICROPROCESSOR.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or

protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overbroad in that it does not limit the scope of the request to a time frame relevant to the action. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on non-party HP to the extent that it seeks documents already in the possession, custody and control of Intel, including documents previously produced by HP to Intel. Intel is able to review these documents without the need to burden and harass non-party HP.

**44. All DOCUMENTS regarding NVIDIA's CHIPSET business including its decision to**

exit the CHIPSET business.

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request as overbroad in that it does not limit the scope of the request to a time frame relevant to the action. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome insofar as it purports to impose a duty on HP to search for and produce documents that are within NVIDIA's possession, custody or control and Intel is currently a party to litigation with

NVIDIA. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from NVIDIA without the need to burden and harass non-party HP.

**45. All DOCUMENTS regarding NVIDIA's production, marketing, and/or sale of QPI-compatible CHIPSETS from April 1, 2007 through November 30, 2007.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent, HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request insofar as it purports to impose a burden on HP to



produce documents outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome insofar as it purports to impose a duty on HP to search for and produce documents that are within NVIDIA's possession, custody or control and Intel is currently a party to litigation with NVIDIA. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from NVIDIA without the need to burden and harass non-party HP.

**46. All DOCUMENTS regarding NVIDIA's investment in GRAPHICS HARDWARE products between 2006 and 2007.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence

relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome insofar as it purports to impose a duty on HP to search for and produce documents that are within NVIDIA's possession, custody or control and Intel is currently a party to litigation with NVIDIA. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from NVIDIA without the need to burden and harass non-party HP.

**47. All DOCUMENTS regarding NVIDIA's ability to continue to produce and/or supply CHIPSETS without a license to make CHIPSETS compatible with Intel's DMI-bus and/or Nehalem-generation microprocessors.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar

as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents outside of HP's possession, custody and control. HP further objects to this Document Request as overbroad in that it does not limit the scope of the request to a time frame relevant to the action. HP further objects to this Document Request as unduly burdensome insofar as it purports to impose a duty on HP to search for and produce documents that are within NVIDIA's possession, custody or control and Intel is currently a party to litigation with NVIDIA. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from NVIDIA without the need to burden and harass non-party HP.

**48. All DOCUMENTS relating to defects or failures of any NVIDIA product, including but not limited to problems involving the overheating of CHIPSETS and GPU products.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege

or immunity by virtue of inadvertently producing such documents. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request as overbroad in that it does not limit the scope of the request to the time frame or the products relevant to the action. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome insofar as it purports to impose a duty on HP to search for and produce documents that are within NVIDIA's possession, custody or control and Intel is currently a party to litigation with NVIDIA. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from NVIDIA without the need to burden and harass non-party HP. By way of further answer, HP states that it did not and does not manufacture NVIDIA products, and, therefore, if Intel seeks discoverable information about these items, it should obtain that information from NVIDIA without the need to burden and harass non-party HP.

**49. All DOCUMENTS relating to any limitations on the ability of NVIDIA to supply quantities of RELEVANT PRODUCTS to HP.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific

Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request as overbroad in that it does not limit the scope of the request to the time frame relevant to the action. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome insofar as it purports to impose a duty on HP to search for and produce documents that are within NVIDIA's possession, custody or control and Intel is currently a party to litigation with NVIDIA. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from NVIDIA without the need to burden and harass non-party HP. By way of

further answer, HP states that it did not and does not manufacture NVIDIA products, and, therefore, if Intel seeks discoverable information about these items, it should obtain that information from NVIDIA without the need to burden and harass non-party HP.

**50. All DOCUMENTS relating to any comparison or analysis of INTEL's ability to provide non-graphics functionality in CHIPSETS with NVIDIA'S ("sic") ability to provide non-graphics functionality in CHIPSETS.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request as overbroad in that it does not limit the scope of the request to the time frame relevant to the action. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of

any party to this action. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on non-party HP to the extent it seeks documents already in the possession, custody and control of Intel. HP further objects to this Document Request as unduly burdensome insofar as it purports to impose a duty on HP to search for and produce documents that are within NVIDIA's possession, custody or control and Intel is currently a party to litigation with NVIDIA. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from NVIDIA without the need to burden and harass non-party HP.

**51. All DOCUMENTS relating to INTEL's planned introduction of any discrete GPU product, including but not limited to Larrabee.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to this Document Request as overbroad in that it does not limit the scope of the request to the time

frame relevant to the action. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on non-party HP insofar as it seeks the production of documents already in the possession, custody and control of Intel, and therefore Intel can obtain such documents without the need to burden and harass non-party HP.

**52. All DOCUMENTS relating to or reflecting communications between HP and NVIDIA regarding NVIDIA's Compute Unified Device Architecture ("CUDA").**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege



or immunity by virtue of inadvertently producing such documents. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request as overbroad in that it does not limit the scope of the request to the time frame relevant to the action. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request insofar as it purports to impose a duty on HP to search for and produce documents that are within NVIDIA's possession, custody or control and Intel is currently a party to litigation with NVIDIA. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from NVIDIA without the need to burden and harass non-party HP.

**53. From January 1, 2006 to present, all documents showing Your ("sic") evaluation of CUDA.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is

produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects on the ground that the request is vague and ambiguous insofar as it purports to require HP to ascertain the intended meaning or scope of the phrase "evaluation," and HP is incapable of ascertaining by reasonable means the intended meaning or scope of the Document Request. HP further objects to this Document Request as overly broad, unduly burdensome and vexatious insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action.

**54. All DOCUMENTS relating to or reflecting any delay in the release of any NVIDIA product from the date originally announced by NVIDIA or previously shown on NVIDIA roadmaps.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is

produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to this Document Request as overbroad in that it does not limit the scope of the request to the time frame or the products relevant to the action. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request insofar as it purports to impose a burden on HP to produce documents outside of HP's possession, custody and control. HP further objects to this Document Request as unduly burdensome insofar as it purports to impose a duty on HP to search for and produce documents that are within NVIDIA's possession, custody or control and Intel is currently a party to litigation with NVIDIA. If the documents sought in this Document Request are determined to be appropriately discoverable, then Intel can obtain them from NVIDIA without the need to burden and harass non-party HP. By way of further answer, HP states that it did not and does not manufacture NVIDIA products, and, therefore, if Intel seeks discoverable information about these items, it should obtain that information from NVIDIA without the need to burden and harass non-party HP.

**55. All DOCUMENTS relating to the bundled or kit pricing to OEMs of AMD MICROPROCESSORS for mobile computer systems with any AMD CHIPSET or GRAPHICS HARDWARE, including but not limited to price lists, communications on negotiated discounts, rebate strategy presentation, and OEM usage-restrictions guidelines.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as overly broad in that it is not limited to the time frame relevant to this action. HP further objects to this Document Request as overly broad and unduly burdensome insofar as it seeks documents not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to

this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on non-party HP insofar as it seeks documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP and AMD to Intel. Intel is able to review these documents without the need to burden and harass non-party HP.

**56. DOCUMENTS sufficient to show, from January 1, 2006 to the present, the annual quantity of mobile computer (e.g., notebooks, laptops) sold by HP containing:**

- (a) an AMD MICROPROCESSOR without a discrete GPU**
- (b) an AMD MICROPROCESSOR and a discrete GPU**
- (c) an INTEL MICROPROCESSOR without a discrete GPU**
- (d) an INTEL MICROPROCESSOR and a discrete GPU.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary, and trade secret information. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose

an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on non-party HP insofar as it seeks documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP and AMD to Intel. Intel is able to review these documents without the need to burden and harass non-party HP.

**57. DOCUMENTS sufficient to show the specific MICROPROCESSORS and specific MICROPROCESSOR/GPU combinations included within categories (a)-(d) in Request 56, including the quantity and price point(s) of HP products sold containing each MICROPROCESSOR or MICROPROCESSOR/GPU combination.**

**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to the Document Request insofar as it purports to seek production of HP's confidential, proprietary,

and trade secret information. HP further objects to the Document Request on the grounds that it subjects HP to unreasonable and undue annoyance, burden and expense and purports to impose an obligation on HP which is greater than that contemplated by the applicable Rules of Practice of the FTC insofar as it purports to seek the production of documents regarding subjects about which HP has already produced voluminous materials to Intel in other litigations. HP objects to the Document Request to the extent that it seeks information HP is precluded from producing pursuant to confidentiality objections by third parties. HP further objects to this Document Request as unduly burdensome, vexatious, and seeking to impose an unnecessary expense on non-party HP insofar as it seeks documents already in the possession, custody and control of Intel, a party to this action, including documents previously produced by HP to Intel. Intel is able to review these documents without the need to burden and harass non-party HP.

**58. All DOCUMENTS referring or relating to any errors in the documentation (whether printed, delivered on any disc medium, or provided online), user manuals, FAQs, or customer support responses (whether oral or online), provided by or on behalf of HP regarding any HP product.**

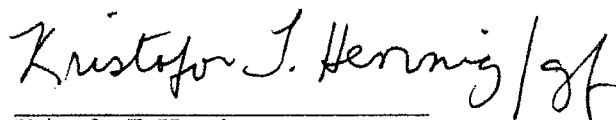
**OBJECTION AND RESPONSE:**

HP objects to this Document Request on all of the grounds set forth in its Specific Objections Applicable to All Document Requests and incorporates those objections as if set forth in full herein. HP further objects to this Document Request to the extent that it seeks information that is confidential. HP further objects to the Document Request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine, the consulting expert privilege, the common interest doctrine, and/or any other applicable privilege or protective doctrine. If HP later produces information responsive to the Subpoena, it will produce only information that is responsive and not privileged. To the extent privileged information is

produced, such production is inadvertent. HP does not waive nor intend to waive any privilege or immunity by virtue of inadvertently producing such documents. HP further objects to this Document Request as overly broad, unduly burdensome and vexatious insofar as it seeks irrelevant documents that are not reasonably calculated to lead to the discovery of admissible evidence relevant and material to the claim or defense of any party to this action. HP further objects to this Document Request to the extent that it seeks documents publicly available on HP's website. Such documents can be obtained by Intel without the need to burden and harass non-party HP. HP further objects to this request to the extent that it is so overbroad that the burden of responding to the discovery far outweighs its possible benefit to Intel. As such, compliance with the Document Request in the Subpoena would be unreasonably burdensome and expensive for HP and/or would cause HP to undertake an unreasonable investigation.

Dated: May 10, 2010

Respectfully submitted,



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Kristofor T. Henning  
Coleen M. Meehan  
Victoria L. Wesner  
Counsel for Hewlett-Packard Company  
MORGAN, LEWIS & BOCKIUS LLP  
1701 Market Street  
Philadelphia, PA 19103  
215-963-5882  
215-963-5001 (fax)



**CERTIFICATE OF SERVICE**

I hereby certify that on May 10, 2010, I caused to be filed via hand delivery and electronic mail delivery an original and ten copies of the foregoing *Motion to Quash and Memorandum of Law* and all exhibits thereto and that the electronic copy is a true and correct copy of the paper original and that a paper copy with an original signature is being filed with:

Donald S. Clark, Secretary  
Office of the Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, NW, Rm. H-135  
Washington, DC 20580  
[secretary@ftc.gov](mailto:secretary@ftc.gov)

I hereby certify that on May 10, 2010, I caused to be served one copy via electronic mail delivery and two copies via hand delivery of the foregoing *Motion to Quash and Memorandum of Law* and all exhibits thereto upon:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
[oalj@ftc.gov](mailto:oalj@ftc.gov)

I hereby certify that on May 10, 2010, I caused to be served via electronic mail delivery and a copy via Federal Express of the foregoing *Motion to Quash and Memorandum of Law* and all exhibits thereto upon:

Thomas H. Brock  
Federal Trade Commission  
601 New Jersey Avenue, NW  
Washington, DC 20001  
[tbrock@ftc.gov](mailto:tbrock@ftc.gov)

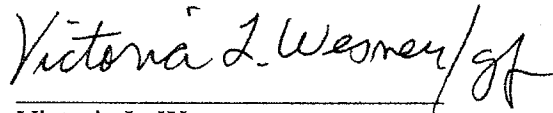
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