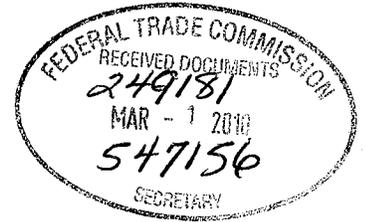


ORIGINAL



UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

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

DOCKET NO. 9341  
PUBLIC

RESPONDENT'S ANSWERS AND OBJECTIONS TO COMPLAINT  
COUNSEL'S FIRST SET OF REQUESTS FOR ADMISSION

Pursuant to the Federal Trade Commission's Rules of Practice ("Rules"), 16 C.F.R. § 3.32, Respondent Intel Corporation ("Intel") hereby files its Answers and Objections to Complaint Counsel's First Set of Requests for Admission ("Requests"), served on February 17, 2010.

GENERAL OBJECTIONS

1. Intel objects to Complaint Counsel's Requests to the extent that they call for information protected from discovery by the attorney-client privilege, the work product doctrine, or any other applicable privilege.
2. Intel objects to Complaint Counsel's Requests to the extent that they call for information protected from discovery pursuant to sections 3.31(c)(3)-(4) of the Rules.
3. Intel objects to Complaint Counsel's Requests to the extent they call for disclosure of its trade secrets and/or confidential and proprietary commercial and financial information. Intel will provide responses containing its confidential and proprietary information subject to the terms of the Protective Order Governing Discovery Material issued by Judge Chappell on December 16, 2009.

PUBLIC

FTC Docket No. 9341  
Respondent's Answers and Objections  
To Complaint Counsel's First Set of Requests for Admission

4. Intel objects to Complaint Counsel's Requests to the extent they are overly broad, vague, ambiguous, unduly burdensome, oppressive, and are not reasonably calculated to lead to the discovery of admissible evidence. Intel denies each request, and/or each portion of a request, unless expressly admitted.

5. Intel objects to Complaint Counsel's Requests to the extent that they call for information previously provided to Complaint Counsel or information that may be less onerously obtained through other means.

6. Intel objects to Complaint Counsel's Requests to the extent they do not relate to statements or opinions of fact or of the application of law to fact, and thereby exceed the scope of Rule 3.32, governing admissions.

7. Intel objects to Complaint Counsel's Requests to the extent that any Request quotes from a document or references a statement and solicits an admission that the quote or statement is evidence of the truth of the matter asserted.

8. Intel reserves all of its evidentiary objections or other objections to the introduction or use of any response at any hearing in this action and does not, by any response to any Request, waive any objections to that Request, stated or unstated.

9. Intel does not, by any response to any Request, admit to the validity of any legal or factual contention asserted or assumed in the text of any Request.

10. Intel objects to Complaint Counsel's Requests on the ground that its discovery and analysis are ongoing and reserves the right to assert additional objections as appropriate, and to amend or supplement these objections and responses as appropriate.

11. Intel objects to Complaint Counsel's Requests to the extent they seek information prior to 2000 on the ground that Intel does not maintain data in a usable format responsive to

Complaint Counsel's Requests before 2000. The burden of responding to these Requests for the time period prior to 2000 is therefore unreasonably high, particularly because of the age and limited relevance of such data.

12. Intel objects to Complaint Counsel's Requests to the extent that they seek admissions regarding Intel's share of certain microprocessor markets without precisely defining either the type of microprocessor or the specific market segment to which the Requests are directed. Accordingly, Intel shall assume that all references to "microprocessors" refer to those microprocessors using the x86 instruction set.

The foregoing general objections shall apply to each of the following Requests whether or not restated in the response to any particular response.

#### **SPECIFIC OBJECTIONS AND RESPONSES**

**REQUEST NO. 1:** *Admit that Intel's worldwide unit share of microprocessors used in desktop, notebook, and server computers has exceeded 65% in each and every year since 1999.*

**RESPONSE:** Intel objects to this Request on the ground that it is unclear whether the Request is asking for share information in particular segments or all of the identified segments combined, thereby rendering the Request vague and ambiguous. Subject to the foregoing objection, Intel assumes that the Request is seeking information about whether Intel's share exceeded 65% in the desktop, notebook, and server segments combined. Intel admits that since January 1, 2000, Intel's worldwide unit share of microprocessors used in desktop, notebook, and servers, taken as a whole, has exceeded 65% in each year.

**REQUEST NO. 2:** *Admit that Intel's worldwide unit share of microprocessors used in servers has exceeded 80% since 2001.*

**RESPONSE:** Intel objects to this Request because the phrase "microprocessors used in servers" is vague and ambiguous. Subject to the foregoing objections, Intel denies this Request. Since

2001, Intel did not consistently have a worldwide unit share of microprocessors used in servers in excess of 80%.

**REQUEST NO. 3:** *Admit that Intel's worldwide unit share of microprocessors used in desktop computers has exceeded 70% since 1999.*

**RESPONSE:** Intel objects to this Request because the phrase "microprocessors used in desktop computers" is vague and ambiguous. Subject to the foregoing objections, Intel admits that for the period since January 1, 2000, Intel's worldwide unit share of microprocessors used in desktop computers has exceeded 70%.

**REQUEST NO. 4:** *Admit that Intel's worldwide unit share of microprocessors used in notebook computers has exceeded 80% since 1999.*

**RESPONSE:** Intel objects to this Request because the phrase "microprocessors used in notebook computers" is vague and ambiguous. Subject to the foregoing objections, Intel admits that for the period since January 1, 2000, Intel's worldwide unit share of microprocessors used in notebook computers has exceeded 80%.

**REQUEST NO. 5:** *Admit that Intel's worldwide unit share of microprocessors used in commercial desktops has exceeded 90% since 1999.*

**RESPONSE:** Intel objects to this Request because the phrase "microprocessors used in commercial desktops" is vague and ambiguous. Subject to the foregoing objections, Intel denies this Request. Since 2000, Intel did not consistently have a worldwide unit share of microprocessors used in commercial desktops in excess of 90%.

**REQUEST NO. 6:** *Admit that Intel's worldwide unit share of microprocessors used in commercial notebooks has exceeded 90% since 1999.*

**RESPONSE:** Intel objects to this Request because the phrase "microprocessors used in commercial notebooks" is vague and ambiguous. Subject to the foregoing objections, Intel

denies this Request. Since 2000, Intel did not consistently have a worldwide unit share of microprocessors used in commercial notebooks in excess of 90%.

**REQUEST NO. 7:** *Admit that Intel was the sole supplier of microprocessors used in desktops, notebooks, and servers to Dell Computer between 1990 and 2005.*

**RESPONSE:** Intel admits that during the period 1990 through 2005, Intel supplied all of Dell's microprocessor requirements for use in Dell desktops, notebooks, and servers. Intel specifically denies that there was any exclusive agreement between Intel and Dell. At all times Dell was free to purchase microprocessors from any other supplier.

**REQUEST NO. 8:** *Admit that Intel did not submit pricing data to the United States Bureau of Labor Statistics for any year between 1999 and 2008.*

**RESPONSE:** Intel admits that it did not submit pricing data to the United States Bureau of Labor Statistics ("BLS") for any year between 1999 and 2008, but avers that, since 1998, the BLS has obtained and relied on secondary source pricing and volume data for Intel x86 microprocessors from *Microprocessor Report* and *Electronic News*, sources relied on in the industry. Representatives of the BLS have indicated that they view these secondary data sources as reliable.

**REQUEST NO. 9:** *Admit that Intel did not submit pricing data to the United States Bureau of Labor Statistics for each year between 1999 and 2009.*

**RESPONSE:** Intel admits that it did not submit pricing data to the BLS for each year between 1999 and 2009, but avers that, since 1998, the BLS has obtained and relied on secondary source pricing and volume data for Intel x86 microprocessors from *Microprocessor Report* and *Electronic News*, sources relied on in the industry. Representatives of the BLS have indicated that they view these secondary data sources as reliable.

**REQUEST NO. 10:** *Admit that Intel collaborated with Nvidia to develop graphics chipsets that were compatible with Intel's microprocessors used in desktop, notebooks, or servers prior to 2006.*

**RESPONSE:** Intel objects to this Request because the phrase “collaborated” is vague and ambiguous. Intel interprets “collaborated” to mean that Intel engaged in joint engineering or other activities with Nvidia to develop graphics chipsets. Subject to the foregoing objections, and this interpretation, Intel denies this Request.

**REQUEST NO. 11:** *Admit that Intel shared its microprocessor roadmaps with Nvidia between 2004 and 2008.*

**RESPONSE:** Intel objects to this Request because the phrase “shared its microprocessor roadmaps” is vague, ambiguous, and overbroad. Intel further objects to this Request because the time period “between 2004 and 2008” is overbroad, requiring an affirmative response to this Request if Intel provided a single forecast regarding any planned future microprocessor products to Nvidia during the referenced period. Subject to the foregoing objections, Intel admits that at certain times during the referenced period, it provided preliminary information regarding future planned microprocessor products to Nvidia.

**REQUEST NO. 12:** *Admit that Intel views Nvidia as a potential competitor in the market for microprocessors used in netbooks, notebooks, desktops, or servers.*

**RESPONSE:** Intel objects to this Request because the term “the market for microprocessors used in netbooks, notebooks, desktops, or servers” is vague and ambiguous. Intel interprets this Request to ask whether Intel views Nvidia as a potential competitor in the supply of microprocessors that can be used in at least one of netbooks, notebooks, desktops, or servers. Subject to the foregoing objections and the foregoing clarification, Intel admits this Request.

**REQUEST NO. 13:** *Admit that Dell was the only OEM Intel indemnified for potential patent liability from Intergraph.*

**RESPONSE:** [REDACTED]

**REQUEST NO. 14:** *Admit that Intel has referred to its integrated graphics on chipsets as GPUs.*

**RESPONSE:** Intel objects to this Request because the phrase “Intel has referred” is vague and ambiguous. Subject to the foregoing objections, Intel admits that individual Intel employees at times may have referred to the graphics controller included within an Intel chipset with integrated graphics as a GPU. Intel does not have a practice or policy of referring to its chipsets with integrated graphics as GPUs.

**REQUEST NO. 15:** *Admit that Nvidia sells GPUs that can perform some of the same functions as Intel’s CPUs.*

**RESPONSE:** Intel objects to this Request because the phrases “some of the same functions” and “Intel’s CPUs” are vague and ambiguous. Subject to the foregoing objections, Intel denies that today or in the foreseeable future it is possible to shift an entire application from a microprocessor to a GPU. Intel admits that Nvidia sells GPUs that for a small minority of computer applications may be able to perform some of the same computations as some of Intel’s microprocessors.

**REQUEST NO. 16:** *Admit that Intel contributes money to the Association for Competitive Technology (“ACT”).*

**RESPONSE:** Intel admits that it contributes money to the Association for Competitive Technology (“ACT”), and that other companies that are members of ACT do so as well.

**REQUEST NO. 17:** *Admit that for any Intel microprocessor sku purchased by Dell, Dell’s net unit price was equal to or lower than that of any other purchaser in 2003, 2004, and 2005.*

**RESPONSE:** Denied. Intel will produce data in this litigation from which information responsive to this Request can be derived or ascertained. These data demonstrate numerous instances in which microprocessors were sold to OEMs on a meeting competition basis at a lower price than the price that Intel charged Dell for comparable microprocessors.

**REQUEST NO. 18:** *Admit that Intel gave Dell more rebate dollars than any other OEM in 2003, 2004, and 2005.*

**RESPONSE:** Intel admits that during 2003, 2004 and 2005, a period when Dell was Intel's largest customer in terms of revenues, the dollar value of Intel's discounts to Dell were greater than those to any other customer.

**REQUEST NO. 19:** *Admit that in January 2003, Acer and Intel reached an agreement whereby Intel would be the sole supplier of microprocessors used in Acer desktops and notebooks.*

**RESPONSE:** Denied. At all times after January 2003, Acer was free to purchase microprocessors from any other supplier. Acer in fact made such purchases from suppliers other than Intel after January 2003.

**REQUEST NO. 20:** *Admit that in June 2001, Toshiba and Intel reached an agreement whereby Intel would be the sole supplier of microprocessors used in Toshiba desktops and notebooks.*

**RESPONSE:** Denied. At all times after June 2001, Toshiba was free to purchase microprocessors from any other supplier.

**REQUEST NO. 21:** *Admit that Intel was the sole supplier to Toshiba of microprocessors used in desktops and notebooks between 2002 and 2005.*

**RESPONSE:** Intel admits that during the period 2002 to 2005, Intel supplied all of Toshiba's microprocessor requirements for use in Toshiba desktops and notebooks. Intel specifically denies that there was any exclusive agreement between Intel and Toshiba. At all times during the referenced period, Toshiba was free to purchase microprocessors from any other supplier.

**REQUEST NO. 22:** *Admit that in 2002, NEC and Intel reached an agreement whereby NEC would purchase 80% of the microprocessors it needed for its desktop and notebook computers from Intel.*

**RESPONSE:** Denied. In May 2002, Intel and NEC discussed NEC's notebook and desktop PC product roadmaps for the fourth quarter of 2002 and, based on Intel's pricing representations, agreed to an Intel target share of 80% of NEC's worldwide microprocessor requirements for the

fourth quarter of 2002 and the first quarter of 2003. At all times during the referenced period NEC was free to purchase microprocessors from any other supplier in its desired quantities.

**REQUEST NO. 23:** *Admit that Hewlett Packard did not receive rebates on its purchases of commercial desktop microprocessors in September and October 2002.*

**RESPONSE:** Denied. Intel will produce data in this litigation from which information responsive to this Request can be derived or ascertained. These data demonstrate that Intel sold microprocessors to HP at a discounted price for use in commercial desktop computers during the relevant period.

Respectfully Submitted,

GIBSON DUNN & CRUTCHER LLP

Robert E. Cooper  
Daniel S. Floyd  
333 South Grand Avenue  
Los Angeles, CA 90071-3197  
T: 213-229-7000  
F: 213-229-7520  
rcooper@gibsondunn.com  
dfloyd@gibsondunn.com

Joseph Kattan, PC  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5306  
T: 202-955-8500  
F: 202-467-0539  
jkattan@gibsondunn.com

HOWREY LLP

Darren B. Bernhard  
Thomas J. Dillickrath  
1299 Pennsylvania Ave, N.W.  
Washington D.C. 20004  
T: 202-383-0800  
F: 202-383-6610  
BernhardD@howrey.com

WILMER CUTLER PICKERING  
HALE AND DORR LLP

  
James C. Burling  
60 State Street  
Boston, MA 02109  
T: 617-526-6000  
F: 617-526-5000  
james.burling@wilmerhale.com

  
James L. Quarles III  
Leon B. Greenfield  
Eric Mahr  
1875 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006  
T: 202-663-6000  
F: 202-663-6363  
james.quarles@wilmerhale.com  
leon.greenfield@wilmerhale.com  
eric.mahr@wilmerhale.com

*Attorneys for Intel Corporation*

Dated: March 1, 2010

**CERTIFICATION**

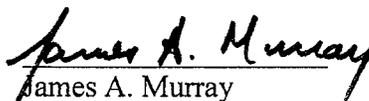
I, James A. Murray, declare as follows:

1. I am Associate General Counsel at Intel Corporation, which is the Respondent in the above-entitled action, and I have been authorized to make this verification on its behalf.

2. I have read the foregoing document entitled Respondent's Answers and Objections To Complaint Counsel's First Set of Requests for Admission and know the contents thereof.

3. I am informed and believe that the information contained therein is accurate and true.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

  
James A. Murray

Executed on March 1, 2010.

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

<b>In the Matter of</b>	)	
	)	
<b>INTEL CORPORATION,</b>	)	<b>DOCKET NO. 9341</b>
<b>a corporation</b>	)	<b>PUBLIC DOCUMENT</b>
	)	
	)	

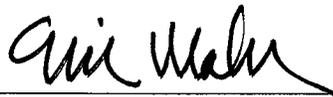
**PROOF OF SERVICE OF PUBLIC FILINGS  
AND CERTIFICATION PURSUANT TO 16 C.F.R. § 4.2**

I, Eric Mahr, hereby certify that on this 1st day of March, 2010, I caused a copy of the documents listed below to be served *by hand* on each of the following: the Office of the Secretary of the Federal Trade Commission (original and two copies) and The Honorable D. Michael Chappell (two copies); and *by electronic mail* to The Honorable D. Michael Chappell (oalj@ftc.gov), Melanie Sabo (msabo@ftc.gov), J. Robert Robertson (rrobertson@ftc.gov), Kyle D. Andeer (kandeer@ftc.gov), Teresa Martin (tmartin@ftc.gov), and Thomas H. Brock (tbrock@ftc.gov):

- (i) A redacted public version of Respondent's Answers and Objections to Complaint Counsel's First Set of Requests for Admission; and
- (ii) this Proof of Service of Public Filings.

Pursuant to 16 C.F.R. § 4.2, I hereby certify that a paper copy of each of these documents with an original signature is being filed with the Secretary of the Commission today by hand, and a true and correct electronic copy of these documents is being sent to the Secretary by email to secretary@ftc.gov and dclark@ftc.gov.

WILMER CUTLER PICKERING HALE AND  
DORR LLP



---

Eric Mahr  
1875 Pennsylvania Ave, N.W.  
Washington, D.C. 20006  
Phone: (202) 663-6000  
Fax: (202) 663-6363  
eric.mahr@wilmerhale.com

*Attorney for Intel Corporation*

Dated: March 1, 2010