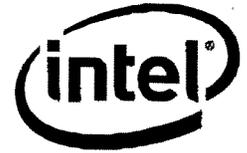


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March 16, 2007

By Facsimile and Overnight Mail

Andrew J. Heimert, Esq.
Executive Director & General Counsel
Antitrust Modernization Commission
1120 G Street, N.W.
Suite 810
Washington, D.C. 20005

Re: Tentative Recommendation No. 17

Dear Mr. Heimert:

Intel Corporation submits this letter to address Recommendation No. 17 of the Antitrust Modernization Commission's ("Commission") Tentative Recommendations, which were issued on January 11, 2007.

Recommendation No. 17 currently states:

Negotiations with Intellectual Property rights owners by members of a standards setting organization with respect to royalties prior to the establishment of the standards, without more, should be evaluated under the rule of reason.

Intel supports the Commission's efforts to clarify that the "rule of reason" is the proper test for evaluating collective licensing discussions in a standard-setting organization. Intel also supports the Commission's efforts to identify solutions to the problem of patent hold-ups. However, Intel believes that Recommendation No. 17 in its current form is incomplete for the reasons set forth below.

First, Recommendation No. 17 does not define the critical, yet potentially ambiguous, term "negotiations." Intel submits that a different term, "collective discussions," is more appropriate because it emphasizes the sharing and exchange of information. Indeed, it is the free flow of information that contributes to improved decision-making.

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March 16, 2007
Page 2

Second, the inclusion of the open-ended phrase “without more” provides no guidance on the boundaries between permissible and impermissible conduct. To give clear guidance on what is proper in a standards setting body, the Commission should clarify that collective discussions of licensing terms are proper only to the extent they are reasonably necessary to achieve a valid, procompetitive purpose – and not merely as a means for members to obtain exclusive benefits for themselves.

Finally, the Antitrust Guidelines for Collaborations Among Competitors (“Collaboration Guidelines”) state that restraints adopted by competitors must be reasonably related to a legitimate efficiency-enhancing integration before “rule of reason” analysis is appropriate. (*See* Collaboration Guidelines, § 1.2.) In order to make plain that “collective discussions” are proper only if they are directed at a procompetitive objective, Intel proposes that the recommendation be revised to include the following language:

In standards setting organizations, collective discussions of licensing terms that are reasonably necessary to achieve procompetitive benefits should be evaluated under the rule of reason.

Intel appreciates the Commission’s efforts in this matter and its consideration of this letter.

Very truly yours,



Michael J. Lawrence

cc : James A. Murray, Esq.
Earl Nied