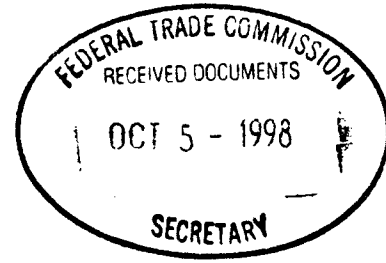


UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION



In the Matter of  
INTEL CORPORATION,  
a corporation.

DOCKET NO. 9288

**REVISED SCHEDULING ORDER**

WHEREAS Respondent Intel Corporation ("Intel") and Complaint Counsel have served various third parties with document subpoenas but have not yet been able to negotiate completely the responses to such subpoenas; and

WHEREAS a number of discovery requests are still being negotiated with third parties and others are being presented to the Court for resolution of outstanding disputes;

WHEREAS resolution of all disputes concerning third-party document subpoenas is required for the parties to conduct meaningful third-party and expert depositions;

WHEREAS the volume of relevant evidence that must be adduced from third parties is unusually great in this case;

WHEREAS both parties require additional time to review the third party evidence and prepare their cases accordingly; and

WHEREAS both Intel and Complaint Counsel believe that, in light of the foregoing, the hearing of this matter, currently scheduled to begin January 12, 1999, should be moved to February 23, 1999;

IT IS ORDERED that the hearing of this matter shall start on February 23, 1999.

IT IS FURTHER ORDERED that the schedule set out herein shall henceforth supersede the Scheduling Order entered in this proceeding on July 14, 1998 and shall govern further proceedings in this matter:

| <u>EVENT</u>  | <u>DATE</u>       |
|---|-------------------|
| Last day to file motions to compel regarding responses to document requests issued to the parties   | October 21, 1998  |
| Last day to file responses to motions to compel regarding document requests issued to the parties (no reply briefs will be permitted absent an order of the Administrative Law Judge) | October 28, 1998  |
| Last day for taking Rule 3.33(c) depositions of Respondent Intel  | November 12, 1998 |
| Exchange of preliminary rebuttal witness list (excluding experts) with description of proposed testimony  | November 13, 1998 |
| Last day to identify expert(s) and exchange of vita, lists of publications and list of matters in which any expert has testified under oath   | November 20, 1998 |
| Last day to file motions to compel regarding party interrogatories (except for those related to requests for admission)   | November 24, 1998 |
| Last day to file responses to motions to compel regarding party interrogatories (except for those related to requests for admission)  | December 1, 1998  |
| Parties exchange Expert Reports and produce or identify documents and other written materials relied upon by the experts in his or her analysis or conclusions                        | December 7, 1998  |
| Parties exchange Rebuttal Expert Reports and produce or identify documents and other written materials relied upon by the experts in his or her analysis or conclusions               | December 24, 1998 |
| Last day to file requests for admission   |                   |
| Last day to file motions to compel interrogatories related to requests for admission  | January 11, 1999  |
| Exchange proposed stipulations of law and fact, stipulations of authenticity  | January 20, 1999  |
| Last day to file responses to motions to compel interrogatories related to requests for admission   |                   |
| Last day for filing motions for summary decision  | January 22, 1999  |

| <u>EVENT</u>   | <u>DATE</u>       |
|--|-------------------|
| Close of discovery, including experts<br>Exchange final exhibit and witness lists  | January 29, 1999  |
| File responses to motions for summary decision<br>Exchange responses to proposed stipulations of law and fact,<br>stipulations of authenticity   | February 5, 1999  |
| File and serve pretrial briefs   | February 8, 1999  |
| Meet and confer to resolve issues regarding proposed stipulations of<br>law and fact, stipulations of authenticity   | February 9, 1999  |
| File motions <i>in limine</i>  | February 11, 1999 |
| File final stipulations of law and fact, final stipulations of<br>authenticity (additional stipulations may be filed as agreed between<br>the parties or as ordered by the Administrative Law Judge) | February 15, 1999 |
| File responses to motions <i>in limine</i>   | February 18, 1999 |
| Final prehearing conference  | February 19, 1999 |
| Hearing begins   | February 23, 1999 |

### ADDITIONAL PROVISIONS

1. No more than two depositions per side shall be conducted on any day, unless otherwise agreed by the parties or ordered by the Administrative Law Judge.

2. Compliance with the scheduled end of discovery requires that the parties serve subpoenas and discovery requests sufficiently in advance of January 29, 1999 that all responses and objections will be due on or before that date, unless otherwise noted. Unless a subpoena or discovery request specifically identifies each document it seeks (e.g., Widget Corporation's 1997 Annual Report), the return/response date shall be reasonable and at least ten (10) days after the date on which the subpoena or discovery request issues or is served. Additional discovery shall be permitted only for good cause upon application to and approval by the Administrative Law Judge or by agreement of the parties, including any third party discovery in the event that the opposing party fails to disclose the identity of a third party that may have information that may be relevant to this proceeding in a timely manner in response to a discovery request.

3. The preliminary and final witness lists shall represent counsel's good faith designation of all potential witnesses. Additional witnesses may be added after the submission of the final witness lists under the following circumstances:

- (a) by agreement of counsel with notice to the Administrative Law Judge;
- (b) by order of the Administrative Law Judge upon a showing of good cause;
- (c) if the identity of the person or the relevance of the information to be provided were not reasonably known at the time the final witness lists were served; or
- (d) if needed, to authenticate or provide evidentiary foundation for documents in dispute, with notice to the opposing party and the Administrative Law Judge.

A party seeking to add witnesses shall promptly notify the other parties of its intention to do so. Opposing counsel shall have a reasonable amount of time to subpoena documents from and depose any witness added to the witness list pursuant to this paragraph, even if the discovery takes place during the hearing. Such discovery shall not be subject to the scheduling or notice provisions of paragraph 1 or the minimum return/response period for subpoenas/discovery requests of paragraph 2 unless otherwise ordered by the Administrative Law Judge.

4. The preliminary and final exhibits list shall represent counsel's good faith designations of all trial exhibits other than demonstrative, illustrative, or summary exhibits. Additional exhibits may be added after the submission of the final lists under the following circumstances:

- (a) by agreement of counsel with notice to the Administrative Law Judge;
- (b) by order of the Administrative Law Judge upon a showing of good cause;
- (c) if the exhibit or the relevance of the information to be provided were not reasonably known at the time the preliminary lists were served; or
- (d) where necessary for purposes of impeachment.

5. At the time an expert is first listed as a witness by a party, the party will provide to the other party:

- (a) materials fully describing or identifying the background and qualifications of the expert, and all prior cases in which the expert has testified or been deposed; and
- (b) transcripts of such testimony in the possession, custody or control of the listing party or the expert.

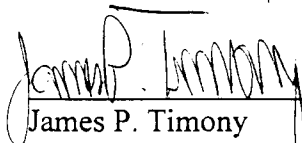
6. The parties shall provide for each expert witness an Expert Report containing the information required by Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure. The parties shall cooperate in scheduling the depositions of any rebuttal expert witnesses, whose depositions may be taken, if necessary, during the hearing in this matter.

7. It shall be the responsibility of a party designating an expert witness to ensure that the expert witness is reasonably available for deposition during the six-week period immediately preceding the last date for expert depositions.

8. All papers shall be served by hand or facsimile by 6:00 p.m. on the designated date. Hand deliveries shall be to Complaint Counsel John O'Hara Horsley, Federal Trade Commission, 601 Pennsylvania Ave., N.W., Room S-3303, Washington, D.C. 20580, and to Respondent's counsel Joseph Kattan, Gibson, Dunn & Crutcher LLP, 1050 Connecticut Ave., N.W., Suite 900, Washington, D.C. 20036-5306. All deliveries by facsimile shall be followed promptly by delivery of an original by hand or by U.S. mail, first class postage prepaid. It shall be the obligation of the serving party to ensure that service by facsimile has been effected.

9. All pleadings, motions, supporting briefs, objections to discovery, responses to discovery, exhibit lists, witness lists, privilege lists, master lists of documents provided, expert reports, and similar material shall be provided in hard copy (paper) and on a 3.5" floppy disk in Microsoft Word, WordPerfect, Microsoft Excel, or Lotus 1-2-3 format if the party or its counsel uses one of these programs to generate the documents described in this paragraph.

10. The procedure for the marking of exhibits is as follows: a one-page exhibit is designated, e.g., CX-1 (for complaint counsel), RX-1 (for respondent's counsel). If there is relevant matter on the back of a page, the exhibit is marked CX-1-A for the front side and CX-1-B for the back side. Capital letters must be used in marking. In the event the document has many pages which are not bound together, each page and each back side of each page containing relevant matter must be numbered CX-1-A through CX-1-Z-1. Items thereafter are numbered CX-1-Z-2, Z-3, Z-4, etc., as necessary.

  
\_\_\_\_\_  
James P. Timony  
Administrative Law Judge

Date: October 5, 1998

WA982440.121/4+