COMMISSIONERS: Jon Leibowitz, Chairman
                      William E. Kovacic
                      J. Thomas Rosch
                      Edith Ramirez
                      Julie Brill

In the Matter of **INTEL CORPORATION,** **a corporation.**	**Docket No. 9341**

DECISION AND ORDER

        The Federal Trade Commission ("Commission") having heretofore issued its complaint charging the Respondent Intel Corporation with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and the Respondent having been served with a copy of that complaint, together with a notice of contemplated relief and having filed its answer denying said charges; and

        The Respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent Order, an admission by Respondent of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

        The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with § 3.25(c) of its Rules; and

        The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, and having duly considered the comments filed thereafter by interested persons pursuant to § 3.25(f) of its Rules, and having modified the Decision and Order in certain respects, now in further conformity with the procedure prescribed in § 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following Order:

        1.   Respondent Intel Corporation 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 Mission College Boulevard, Santa Clara, California 95054.

2.   The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

I.

IT IS ORDERED that for the purposes of this Order, the following definitions shall apply:

THE PARTIES

A.   "Respondent" or "Intel" means Intel Corporation, its directors, officers, employees, agents, representatives, predecessors, successors, and assigns; and its joint ventures, subsidiaries, divisions, groups and affiliates controlled by Intel Corporation; and the respective directors, officers, employees, agents, representatives, predecessors, successors, and assigns of each.

B.   "Commission" means the Federal Trade Commission.

OTHER DEFINITIONS

C.   "AMD Patent Agreement" means the Patent Cross License Agreement between Advanced Micro Devices, Inc. and Intel Corporation dated November 11, 2009.

D.   "Benefit" means any price or non-price benefit including without limitation price discounts, marketing funds, supply, and marketing or engineering support; provided, however, that initiating or forbearance from initiating litigation (including without limitation any activity related to lawfully enforcing its intellectual property rights) shall not be a Benefit.

E.   "Clear(ly) and Prominent(ly)" means that the disclosure shall be presented in a manner that stands out from the accompanying text, so that it is sufficiently prominent, because of its type size, contrast, location, or other characteristics, for an ordinary consumer to notice, read and comprehend it. All disclosures, including audio and video disclosures, shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any communication containing the disclosure.

F.   "Compatible x86 Microprocessor" means a Microprocessor (i) not designed, manufactured, promoted and sold by Respondent, (ii) that is substantially binary compatible with an Intel x86 Microprocessor without using non-native execution such as emulation, (iii) to perform substantially the same functions as an Intel x86 Microprocessor in response to substantially the same input, (iv) that is designed, manufactured, promoted and sold by any entity other than Respondent (v) for use in, and that is used in, any high-volume Computer Product.

G.   "Compiler" means a computer program that converts the instructions written in a high level computer programming language into assembly language or machine

code that can later be executed directly by a Microprocessor, associated libraries (whether for use with Respondent's or any other compiler, e.g., performance libraries such as Intel Math Kernel Library, Intel Threaded Building Blocks, and Intel Integrated Performance Primitives), and associated development tools.

H.   "Compiler Customer" means any customer that has purchased from Respondent any version of any Intel Compiler or associated libraries listed in Exhibit 1 since January 1, 2003, as reflected in Respondent's business records.

I.   "Computer Product" means any deskt

O.   "Designated Patent Agreements" means the AMD Patent Agreement, the Nvidia Patent Agreements and the Via Patent Agreements.

P.   "Designated Intel Roadmap Competitor" means Nvidia Corporation or its permitted successors and assignees under the Designated Patent Agreements.

Q.   "End User" means a person that purchases Computer Products from an OEM and is not an End User Customer or OEM.

R.   "End User Customer" means a person that purchases Relevant Products from Respondent or a Designated Intel Competitor for use in manufacturing Computer Products for its own use and that derives less than five (5) percent of its revenue from the sale of Computer Products to third parties. Any person that derives five (5) percent or more of its revenue from the sale of Computer Products to third parties shall be deemed an OEM and not an End User Customer for purposes of this Order.

S.

Y.   "Non-PC Product" means any product, other than a Computer Product, including without limitation any smart phone, cell phone, tablet, Pocket PC or other consumer electronic devices. For clarity, any product that includes a screen with a diagonal size of less than seven (7) inches is a Non-PC Product regardless of whether it meets this definition of NonPC Product or not.

Z.   "Nvidia Patent Agreements" means the Patent Cross License Agreement between Nvidia Corporation and Intel Corporation dated November 18, 2004, and the Chipset License Agreement Between Nvidia Corporation and Intel Corporation Dated November 18, 2004.

AA.   "Original Design Manufacturer" or "ODM" means a customer of Respondent whose primary business is the design and/or manufacture of a Computer Product which is specified and eventually branded by another firm for sale.

BB.   "Original Equipment Manufacturer" or "OEM" means a customer of Respondent that manufactures and sells Computer Products and who is not an End User Customer.

CC.   "Product Roadmap" means Respondent's formal plan of record identifying Respondent's strategic future product plans for Mainstream Microprocessors.

DD.   "Required Interface Roadmap" means a Respondent document that identifies the internal development name of future Mainstream Microprocessors under development by Respondent and, for each, the calendar quarter within which such product is then-planned to be commercially introduced and the then-planned version of the Standard PCI Express Bus interface.

EE.   "Relevant GPU" means one or more integrated circuit(s) that: (i) is the primary graphics processing unit in a Computer Product; (ii) is capable of performing real-time graphics rendering tasks separate from that Computer Product's Relevant Microprocessor Product; (iii) does not provide the primary interface between the Computer System's Relevant Microprocessor Product and storage (including without limitation a hard disk drive); and (iv) does not provide the primary interface between the Computer System's Relevant Microprocessor Product and input devices (including without limitation a keyboard). In no case shall any one or more integrated circuits that meet this definition of Relevant GPU be considered a Microprocessor or Computer Product Chipset under this Order.

FF.   "Relevant Microprocessor Product" means (a) any Mainstream Microprocessor and (b) any Compatible x86 Microprocessor.

GG.   "Relevant Products" means (i) Relevant Microprocessor Products and (ii) Relevant GPUs.

HH.   "Standard PCI Bus" means a chip-to-chip interconnect designed to comply with a PCI Express (PCIe) Base Specification published by the PCI-SIG.

1.   the Designated Intel Competitor may, without breaching that agreement, disclose, to any customer of the

Acquiring Entity or another entity controlled by one of them has first filed any suit against Respondent;

2. within ten (10) days from the date of the change of control, Respondent shall offer to enter into a written, reciprocal Standstill Agreement with the Acquiring Entity, such Standstill Agreement to comprise the following terms:

a. Respondent and the Acquiring Entity shall enter into good faith negotiations regarding the future patent relationship, if any, between them;

b. to facilitate those good faith negotiations, for a period of one year from the change of control, neither Respondent nor the Acquiring Entity (or any Affiliate of either of them) shall initiate patent litigation against the other or any Affiliate thereof;

c. the Standstill Agreement shall not act as a license or provide any patent or other intellectual property rights or defenses to any person or party, either expressly or by implication, estoppel, exhaustion, license, waiver, laches or otherwise; and

d. Respondent shall afford the Acquiring Entity not less than ten (10) days from receipt of Respondent's written offer to accept in writing the offered Standstill Agreement.

e. For purposes of this Section, "Affiliate" means any entity that is directly or indirectly controlled by, under common control with, or that controls the subject entity.

C. Respondent shall, within thirty (30) days after the date this Order becomes final, offer to Via to sign written amendments to the Via Patent Agreements to:

1. extend the "Capture Period" in Sections 1.4 of the Litigation Settlement Agreement between Via Technologies, Inc. and Intel Corporation dated April 7, 2003, 1.3 of the Via Patent Cross License Addendum of the same date, and 1.1 of the Via Microprocessor Addendum of the same date, to provide that the Capture Periods end on the fifteenth yearly anniversary of

3. provide that Respondent shall, upon the request of Via, publicly state that Via is permitted to make, use, sell or import Via microprocessors that are compatible with the x86 instruction set but not pin compatible or bus compatible with Intel microprocessors, including such Via microprocessors with graphics technology designed by and supplied to Via by a third party, so long as Via does not exceed the scope of the licenses expressly granted under or otherwise breach the terms of those agreements.

4. Respondent's written offer shall state that Via has thirty (30) days from receipt of Respondent's written offer to accept in writing any or all of the offered amendments. The amendments shall not be conditioned upon any other change to the Via Patent Agreements, including, without limitation, changes to provisions concerning Via's license rights concerning Microprocessors that are not Compatible x86 Microprocessors (including any intellectual property licensed from ARM Holdings) or Via's "have made" rights.

D. Respondent shall not breach any term of any Designated Intel Competitor Patent Agreement that provides "have made" rights to the Designated Intel Competitor.

E. Respondent shall comply with the requirements to offer the Designated Patent Agreement amendments described herein

Computer Products containing a Relevant Product or a Computer Product Chipset from a supplier other than Respondent;

3.   conditions any Benefit to a Customer or End User based on whether that person or entity purchases, sells or launches products incorporating a Relevant Product or a Computer Product Chipset from a supplier other than Respondent;

4.   denies any Benefit to a Customer or End User because of that person's design, manufacture, distribution, or promotion of products incorporating a Relevant Product or a Computer Product Chipset from a supplier other than Respondent;

5.   conditions any Benefit to a Customer based on the Market Segment Share of a Relevant Product or a Computer Product Chipset that a Customer awards to Respondent or to any competitor;

6.   conditions any Benefit to a Customer or End User, either formally or informally, directly or indirectly, upon a Customer's purchase or sale of (a) Mainstream Microprocessors and (b) Computer Product Chipsets in a fixed proportion where, if the entire value of the Benefit were attributed to the Mainstream Microprocessors or Computer Product Chipsets included in the bundle, the selling price of those Mainstream Microprocessors or Computer Product Chipsets, as th

manufacturing, selling or promoting Computer Products with agreed-upon specifications);

2. agreeing with any Customer that the customer will not:

    a. use the same model number for Computer Products containing a Relevant Product or Computer Product Chipset supplied by Respondent in conjunction with Computer Products containing a Relevant Product or Computer Product Chipset not supplied by Respondent;

    b. falsely designate or label a Computer Product as containing a Relevant Product or Computer Product Chipset sold by Respondent; or

    c. communicate in a false or deceptive manner, directly or by implication, that a Computer Product contains a Relevant Product or Computer Product Chipset supplied by Respondent.

3. offering a Benefit, including a price discount, reasonably similar to one Respondent reasonably believes is being offered by a rival supplier; provided, however, that in such circumstance:

    a. the Benefit shall be applicable only to the quantity of Relevant

Respondent actually purchased in a given bid (e.g., $X per-unit for the first x units; $Y per-unit for the next y units; etc.), provided the terms are in writing. Such discounts must be based upon the End User's purchases pursuant to a single bid to acquire Computer Products and cannot be contingent on future purchases;

7. when a Relevant Product or Computer Product Chipset is in Constrained Supply, making product allocation decisions for Customers that accounted for two (2) percent or more of Respondent's sales of Relevant Product in the preceding year, provided that, in making such decisions, Respondent shall not retaliate or otherwise punish any Customer because of the extent or existence of any Customer's relationship with an Intel competitor, including without limitation whether the Customer purchases Relevant Products or Computer Product Chipsets from an Intel competitor;

8. agreeing with a Customer that the Customer will not purchase Relevant Products or Computer Product Chipsets from an Intel competitor where:

   a. Respondent has provided Extraordinary Assistance to the Customer;

   b. the period of such exclusivity is no longer than necessary for Respondent to achieve a return on invested capital (as that term is used and calculated by Respondent in the ordinary course of business) comparable to the return on invested capital of Respondent's other comparable investments and to ensure that intellectual property made available by Respondent to the Customer in connection with the provision of Extraordinary Assistance is not used in connection with Relevant Products or Computer Product Chipsets purchased by the Customer from an Intel competitor except as otherwise authorized or licensed by Respondent, but in no event longer than thirty months (or such longer time period as the Commission may approve) from the date on which the Customer's product reflecting the Extraordinary Assistance is first sold commercially;

   c. the exclusivity is limited to the new segment or channel or product;

   d. any agreement regarding such assistance, investment and exclusivity is in writing, executed by both Respondent and the Customer, and retained by Respondent for at least ten (10) years; and

   e. Respondent does not (i) enter into more than ten (10) such agreements over the term of this Order (or such additional agreements as the Commission may approve); and (ii) enter into

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more than two (2) such agreements in any twelve month period (or

regarding changes in that Product Roadmap received from that third party during the one (1) year following such disclosure.

B.   No later than the first (1st), second (2nd), third (3rd) and fourth (4th) annual anniversaries of the date on which this Order becomes final, Respondent shall provide to each Designated Intel Roadmap Competitor a Required Interface Roadmap that will include the future Mainstream Microprocessor Platforms with a Required Interface that Respondent then-plans to introduce commercially before the fifth (5th) annual anniversary of this Order:

1.   Respondent shall use reasonable efforts to ensure that the Required Interface Roadmap provided is, at the time it is provided, accurate and not misleading; and

2.   Respondent shall use reasonable efforts to respond accurately to any reasonable number of inquiries (no more than one per calendar quarter) received on or before the fourth annual anniversary of this Order from a Designated Intel Roadmap Competitor regarding any material changes to the information provided on a Required Interface Roadmap previously provided to that Designated Intel Roadmap Competitor in compliance with this Order.

3.   **Provided, however,** that Respondent may condition the receipt of any Required Interface Roadmap upon (i) the recipient's execution of a written non-disclosure agreement to maintain the confidentiality of the Required Interface Roadmap and/or (ii) the receipt of a certification from the Designated Intel Roadmap Competitor stating that such Competitor is developing a Relevant GPU that is intended to connect, and would be capable of connecting, to a Mainstream Microprocessor via a Required

A.   Within ninety (90) days of the date on which this Order becomes effective,

Reimbursement Program"). Such a notification must include a link to or a copy of this Order and specifically reference

VIII.

IT IS FURTHER ORDERED that in Respondent's activities in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, in connection with the marketing and promotion of Relevant Microprocessor Products (including promotion on Respondent's website, in advertisements or in other promotional material):

A.   Whenever Respondent (i) makes a claim comparing the performance of a Mainstream Microprocessor and a Compatible x86 Microprocessor, or (ii) makes any claim that references the performance of a Mainstream Microprocessor on any benchmark, Respondent shall Clearly and Prominently make the following disclosure:

> Software and workloads used in performance tests may have been optimized for performance only on Intel microprocessors. Performance tests, such as SYSmark and MobileMark, are measured using specific computer systems, components, software, operations and functions. Any change to any of those factors may cause the results to vary. You should consult other information and performance tests to assist you in fully evaluating your contemplated purchase, including the performance of that product when combined with other products.

B.   **Provided, however,**

IT IS FURTHER ORDERED that:

A.   At any time after this Order becomes final, and for the limited purpose of assisting the Commission in monitoring and enforcing Respondent's compliance with Order Paragraphs II., IV.A.6., IV.A.7, IV.B.6-8, V., VI., VII., and VIII., including the definitions of all included terms (hereafter "Technical Consultant Provisions"), the Commission may appoint one or more Technical Consultants, subject to the consent of Respondent whose consent shall not be unreasonably withheld. The Commission shall submit the name, background, expertise and fee structure of any proposed Technical Consultants to Respondent and shall identify the Technical Consultant Provisions for which the Technical Consultants' services are sought by the Commission. If Respondent has not opposed, in writing, including the reasons for opposing, the selection of any proposed Technical Consultants within ten (10) days after notice by the Commission's staff, Respondents shall be deemed to have consented to the selection of the proposed Technical Consultant.

B.   Respondent shall, not later than ten (10) days after appointment, execute an agreement with any Technical Consultant that, subject to the approval of the Commission, and consistent with this Paragraph, provides, among other things, that the Technical Consultant shall act in a fiduciary capacity for the benefit of the Commission. Any Technical Consultants appointed by the Commission shall serve without bond or surety at the expense of Respondent on such reasonable and customary terms and conditions as the Commission may set and as provided in the agreement. If the Commission determines that a Technical Consultant has ceased to act or failed to perform its obligations diligently, the Commission may appoint a substitute Technical Consultant in the same manner as provided in this Paragraph.

   1.   **Provided, however,** that, pursuant to any agreements with any Technical Consultants, Respondent shall not be required to pay, for the duration of this Order, a total of more than two (2) million dollars to all Technical Consultants.

   2.   **Provided further, however,** and for the avoidance of doubt, that Respondent's own expenses in responding to any requests for information,

information, and such other relevant information related to Respondent's compliance with the Technical Consultant Provisions. Any reports, information, or documents received by the Commission related to the Technical Consultant Provisions may be shared with appointed Technical Consultants at the Commission's discretion.

D. Respondent may require any Technical Consultants and any of the Technical Consultant's consultants, engineers, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement and to certify that there are no conflicts of interests based on past or present representations. Provided however, such agreement shall not restrict the Technical Consultant from providing any information to the Commission. Technical Consultants will in all other respects be subject to the same ethical obligations as any other Commission consultant.

E. The Commission may, among other things, require each Technical Consultant, and any consultants, engineers, accountants, attorneys, and other representatives and assistants to sign an appropriate confidentiality agreement relating to Commission materials and information received in connection with the performance of the Technical Consultant's duties.

G. **Provided, however,** that nothing in this Paragraph shall prevent the Commission from retaining the services of any Technical Consultant, for any purpose, pursuant to any separate contract or agreement between the Commission and such Technical Consultant.

X.

IT IS FURTHER ORDERED that:

A. Within sixty (60) days of the date this Order becomes final, Respondent shall submit to the Commission a verified written report setting forth in detail the manner and form in which the Respondent has complied, is complying, and will comply with this Order.

B. One (1) year after the date this Or

XI.

IT IS FURTHER ORDERED that, for purposes of determining or securing compliance with this Order, and subject to any legally r

XIV.

IT IS FURTHER ORDERED that unless indicated otherwise, the provisions of this Order shall terminate on October 29, 2020.

Exhibit 1: Intel Compilers and Associated Libraries

Intel Fortran Compiler for Linux

Intel Fortran Compiler for Windows

Intel C++ Compiler for Linux

Intel C++ Compiler for Windows

Intel C++ Compiler for Mac OS X

Intel® Compiler Suite Professional Edition for Windows

Intel® Compiler Suite Professional Edition for Linux

Intel® C++ Compiler Professional Edition for Windows

Intel® Visual Fortran Compiler Professional Edition for Windows

Intel® Visual Fortran Compiler Professional Edition for Windows with IMSL

Intel® C++ Compiler Professional Edition for Linux

Intel® Fortran Compiler Professional Edition for Linux

Intel® C++ Compiler Professional Edition for Mac OS X

Intel® Fortran Compiler Professional Edition for Mac OS X

Intel® C++ Compiler Professional Edition for QNX Neutrino RTOS

Intel® Application Software Development Tool Suite for Intel Atom™ Processor

Intel® Embedded Software Development Tool Suite for Intel Atom™ Processor

Intel Parallel Studio

Intel Parallel Composer

Intel Cluster Toolkit Compiler Edition for Linux

Intel® Math Kernel Library (Intel® MKL) for Windows

Intel® Math Kernel Library (Intel MKL) for Linux

Intel® Threading Building Blocks (Intel® TBB) for Windows

Intel® Threading Building Blocks (Intel TBB) for Linux

Intel® Threading Building Blocks (Intel TBB) for Mac OS X

Intel Math Libraries

Intel MPI Library for Linux

Intel MPI Library for Windows