

AMD sues Intel over monopoly abuses

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AMD announced today that it filed an antitrust complaint against Intel Corporation yesterday in U.S. federal district court for the district of Delaware under Section 2 of the Sherman Antitrust Act, Sections 4 and 16 of the Clayton Act, and the California Business and Professions Code. The 48-page complaint explains in detail how Intel has unlawfully maintained its monopoly in the x86 microprocessor market by engaging in worldwide coercion of customers from dealing with AMD. It identifies 38 companies that have been victims of coercion by Intel – including large scale computer-makers, small system-builders, wholesale distributors, and retailers, through seven types of illegality across three continents.

"Everywhere in the world, customers deserve freedom of choice and the benefits of innovation – and these are being stolen away in the microprocessor market," said Hector Ruiz, AMD chairman of the board, president and chief executive officer. "Whether through higher prices from monopoly profits, fewer choices in the marketplace or barriers to innovation – people from Osaka to Frankfurt to Chicago pay the price in cash every day for Intel's monopoly abuses."

x86 microprocessors run the Microsoft Windows, Solaris and Linux families of operating systems. Even Apple, a pioneer of the PC and one of the industry's enduring innovators, announced that it would switch exclusively to x86 processors to run Mac OS software beginning in 2006. Intel's share of this critical market currently counts for about 80 percent of worldwide sales by unit volume and 90 percent by revenue, giving it entrenched monopoly ownership and super-dominant market power.

This litigation follows a recent ruling from the Fair Trade Commission of Japan (JFTC), which found that Intel abused its monopoly power to exclude fair and open competition, violating Section 3 of Japan's Antimonopoly Act. These findings reveal that Intel deliberately engaged in illegal business practices to stop AMD's increasing market share by imposing limitations on Japanese PC manufacturers. Intel did not contest these charges.

The European Commission has stated that it is pursuing an investigation against Intel for similar possible antitrust violations and is cooperating with the Japanese authorities.

“You don't have to take our word for it when it comes to Intel's abuses; the Japanese government condemned Intel for its exclusionary and illegal misconduct,” said Thomas M. McCoy, AMD executive vice president, legal affairs and chief administrative officer. “We encourage regulators around the world to take a close look at the market failure and consumer harm Intel's business practices are causing in their nations. Intel maintains illegal monopoly profits at the expense of consumers and computer manufacturers, whose margins are razor thin. Now is the time for consumers and the industry worldwide to break free from the abusive Intel monopoly.”

The 48-page complaint, drafted after an intensive investigation by AMD's lead outside counsel, Charles P. Diamond of O'Melveny & Myers LLP, details numerous examples of what Diamond describes as “a pervasive, global scheme to coerce Intel customers from freely dealing with AMD to the detriment of customers and consumers worldwide.” According to the complaint, Intel has unlawfully maintained its monopoly by, among other things:

-- Forcing major customers such as Dell, Sony, Toshiba, Gateway, and Hitachi into Intel-exclusive deals in return for outright cash payments,

discriminatory pricing or marketing subsidies conditioned on the exclusion of AMD;

According to industry reports, and as confirmed by the JFTC in Japan, Intel has paid Dell and Toshiba huge sums not to do business with AMD. Intel paid Sony millions for exclusivity. AMD's share of Sony's business went from 23 percent in '02 to 8% in '03, to 0%, where it remains today.

-- Forcing other major customers such as NEC, Acer, and Fujitsu into partial exclusivity agreements by conditioning rebates, allowances and market development funds (MDF) on customers' agreement to severely limit or forego entirely purchases from AMD;

Intel paid NEC several million dollars for caps on NEC's purchases from AMD. Those caps assured Intel at least 90% of NEC's business in Japan and imposed a worldwide cap on the amount of AMD business NEC could do.

-- Establishing a system of discriminatory and retroactive incentives triggered by purchases at such high levels as to have the intended effect of denying customers the freedom to purchase any significant volume of processors from AMD;

When AMD succeeded in getting on the HP retail roadmap for mobile computers, and its products sold well, Intel responded by withholding HP's fourth quarter 2004 rebate check and refusing to waive HP's failure to achieve its targeted rebate goal; it allowed HP to make up the shortfall in succeeding quarters by promising Intel at least 90% of HP's mainstream retail business.

-- Threatening retaliation against customers for introducing AMD computer platforms, particularly in strategic market segments such as commercial desktop;

Then-Compaq CEO Michael Capellas said in 2000 that because of the volume of business given to AMD, Intel withheld delivery of critical server chips. Saying "he had a gun to his head," he told AMD he had to

stop buying.

According to Gateway executives, their company has paid a high price for even its limited AMD dealings. They claim that Intel has “beaten them into ‘guacamole’” in retaliation.

-- Establishing and enforcing quotas among key retailers such as Best Buy and Circuit City, effectively requiring them to stock overwhelmingly or exclusively, Intel computers, artificially limiting consumer choice;

AMD has been entirely shut out from Media Markt, Europe’s largest computer retailer, which accounts for 35 percent of Germany’s retail sales.

Office Depot declined to stock AMD-powered notebooks regardless of the amount of financial support AMD offered, citing the risk of retaliation.

-- Forcing PC makers and tech partners to boycott AMD product launches or promotions;

Then-Intel CEO Craig Barrett threatened Acer’s Chairman with “severe consequences” for supporting the AMD Athlon 64 launch. This coincided with an unexplained delay by Intel in providing \$15-20M in market development funds owed to Acer. Acer withdrew from the launch in September 2003.

-- Abusing its market power by forcing on the industry technical standards and products that have as their main purpose the handicapping of AMD in the marketplace.

Intel denied AMD access to the highest level of membership for the Advanced DRAM technology consortium to limit AMD’s participation in critical industry standard decisions that would affect its business. Intel designed its compilers, which translate software programs into machine-readable language, to degrade a program’s performance if operated on a computer powered by an AMD microprocessor.

To view the full text of the complaint, please visit www.amd.com/breakfree .

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