

**FTC Charges Anticompetitive Tactics Have Stifled Innovation and Harmed Consumers**

**FOR RELEASE**

December 16, 2009

- **TAGS:** Competition

The Federal Trade Commission today sued Intel Corp., the world's leading computer chip maker, charging that the company has illegally used its dominant market position for a decade to stifle competition and strengthen its monopoly.

In its complaint, the FTC alleges that Intel has waged a systematic campaign to shut out rivals' competing microchips by cutting off their access to the marketplace. In the process, Intel deprived consumers of choice and innovation in the microchips that comprise the computers' central processing unit, or CPU. These chips are critical components that often are referred to as the "brains" of a computer.

According to the FTC complaint, Intel's anticompetitive tactics were designed to put the brakes on superior competitive products that threatened its monopoly in the CPU microchip market. Over the last decade, this strategy has succeeded in maintaining the Intel monopoly at the expense of consumers, who have been denied access to potentially superior, non-Intel CPU chips and lower prices, the complaint states.

"Intel has engaged in a deliberate campaign to hamstring competitive threats to its monopoly," said Richard A. Feinstein, Director of the FTC's Bureau of Competition. "It's been running roughshod over the principles of fair play and the laws protecting competition on the merits. The Commission's action today seeks to remedy the damage that Intel has done to competition, innovation, and, ultimately, the American consumer."

The FTC's administrative complaint charges that Intel carried out its anticompetitive campaign using threats and rewards aimed at the world's largest computer manufacturers, including Dell, Hewlett-Packard, and IBM, to coerce them not to buy rival computer CPU chips. Intel also used this practice, known as exclusive or restrictive dealing, to prevent computer makers from marketing any machines with non-Intel computer chips.

In addition, allegedly, Intel secretly redesigned key software, known as a compiler, in a way that deliberately stunted the performance of competitors' CPU chips. Intel told its customers and the public that software performed better on Intel CPUs than on competitors' CPUs, but the company deceived them by failing to disclose that these differences were due largely or entirely to Intel's compiler design.

Having succeeded in slowing adoption of competing CPU chips over the past decade until it could catch up to competitors like Advanced Micro Devices, Intel allegedly once again finds itself falling behind the competition – this time in the critical market for graphics processing units, commonly known as GPUs, as well as some other related markets. These products have lessened the need for CPUs, and therefore pose a threat to Intel's monopoly power.

Intel has responded to this competitive challenge by embarking on a similar anticompetitive strategy, which aims to preserve its CPU monopoly by smothering potential competition from GPU chips such as those made by Nvidia, the FTC complaint charges. As part of this latest campaign, Intel misled and deceived potential competitors in order to protect its monopoly. The complaint alleges that there also is a dangerous probability that Intel's unfair methods of competition could allow it to extend its monopoly into the GPU chip markets.

According to the FTC's complaint, Intel's anticompetitive tactics violate Section 5 of the FTC

Act, which is broader than the antitrust laws and prohibits unfair methods of competition, and deceptive acts and practices in commerce. Critically, unlike an antitrust violation, a violation of Section 5 cannot be used to establish liability for plaintiffs to seek triple damages in private litigation against the same defendant. The complaint also alleges that Intel engaged in illegal monopolization, attempted monopolization and monopoly maintenance, also in violation of Section 5 of the FTC Act.

To remedy the anticompetitive damage alleged in the complaint, the FTC is seeking an order which includes provisions that would prevent Intel from using threats, bundled prices, or other offers to encourage exclusive deals, hamper competition, or unfairly manipulate the prices of its CPU or GPU chips. The FTC also may seek an order prohibiting Intel from unreasonably excluding or inhibiting the sale of competitive CPUs or GPUs, and prohibiting Intel from making or distributing products that impair the performance—or apparent performance—of non-Intel CPUs or GPUs.

The Commission vote approving the administrative complaint was 3-0, with Commissioner William E. Kovacic recused, and Commissioner J. Thomas Rosch issuing a separate statement in which he concurs in part and dissents in part from the Commission vote.

Chairman Leibowitz and Commissioner Rosch issued a statement outlining the rationale for bringing the case under Section 5 of the FTC Act, which can be found on the FTC's Web site and as a link to this press release. In his concurring and dissenting statement, Commissioner Rosch described the legal principles that limit an FTC Act Section 5 claim in this case, and the problems that could result from adding follow-on Sherman Act Section 2 claims. A copy of the Commissioner's statement also can be found on the FTC's Web site and as a link to this press release.

Under the recently implemented rule expediting the Part 3 administrative hearing process, this matter is tentatively scheduled to be heard before an Administrative Law Judge on September 15, 2010, at 10:00 a.m.

**NOTE:** The Commission issues a complaint when it has "reason to believe" that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. The issuance of a complaint is not a finding or ruling that the respondent has violated the law. The complaint marks the beginning of a proceeding in which the allegations will be ruled upon after a formal hearing.

The FTC's Bureau of Competition works with the Bureau of Economics to investigate alleged anticompetitive business practices and, when appropriate, recommends that the Commission take law enforcement action. To inform the Bureau about particular business practices, call 202-326-3300, send an e-mail to [antitrust@ftc.gov](mailto:antitrust@ftc.gov), or write to the Office of Policy and Coordination, Room 394, Bureau of Competition, Federal Trade Commission, 600 Pennsylvania Ave, N.W., Washington, DC 20580. To learn more about the Bureau of Competition, read "Competition Counts" at <http://www.ftc.gov/competitioncounts>. (FTC File No.: 061-0247)

[FTC Settles Charges of Anticompetitive Conduct Against Intel](#)

**Provisions are Designed to Foster Competition in the Computer Chip Business**

**FOR RELEASE**

August 4, 2010

The Federal Trade Commission approved a settlement with Intel Corp. that resolves charges

the company illegally stifled competition in the market for computer chips. Intel has agreed to provisions that will open the door to renewed competition and prevent Intel from suppressing competition in the future.

The settlement goes beyond the terms applied to Intel in previous actions against the company and will help restore competition that was lost as a result of Intel's alleged past anticompetitive tactics. At the same time, the settlement will leave the company room to innovate and offer competitive pricing.

"This case demonstrates that the FTC is willing to challenge anticompetitive conduct by even the most powerful companies in the fastest-moving industries," said Chairman Jon Leibowitz.

"By accepting this settlement, we open the door to competition today and address Intel's anticompetitive conduct in a way that may not have been available in a final judgment years from now. Everyone, including Intel, gets a greater degree of certainty about the rules of the road going forward, which allows all the companies in this dynamic industry to move ahead and build better, more innovative products."

The FTC settlement applies to Central Processing Units, Graphics Processing Units and chipsets and prohibits Intel from using threats, bundled prices, or other offers to exclude or hamper competition or otherwise unreasonably inhibit the sale of competitive CPUs or GPUs. The settlement also prohibits Intel from deceiving computer manufacturers about the performance of non-Intel CPUs or GPUs.

The FTC settlement goes beyond those reached in previous antitrust cases against Intel in a number of ways. For example, the FTC settlement order protects competition and not any single competitor in the CPU, graphics, and chipset markets. It also addresses Intel's disclosures related to its compiler – a product that plays an important role in CPU performance. The settlement order also ensures that manufacturers of complementary products such as discrete GPUs will be assured access to Intel's CPU for the next six years.

The FTC sued Intel in December 2009 alleging that the company used anticompetitive tactics to cut off rivals' access to the marketplace and deprive consumers of choice and innovation in the microchips that comprise computers' central processing unit, or CPU. These chips are critical components that often are referred to as the "brains" of a computer. The action also challenged Intel's conduct in markets for graphics processing units and other chips.

The FTC alleged that Intel's anticompetitive practices violated Section 5 of the FTC Act, which is broader than the antitrust laws and prohibits unfair methods of competition and deceptive acts and practices in commerce. Unlike an antitrust violation, a violation of Section 5 cannot be used to establish liability for plaintiffs to seek triple damages in private litigation against the same defendant.

Under the settlement, Intel will be prohibited from:

- conditioning benefits to computer makers in exchange for their promise to buy chips from Intel exclusively or to refuse to buy chips from others; and
- retaliating against computer makers if they do business with non-Intel suppliers by withholding benefits from them.

In addition, the FTC settlement order will require Intel to:

- modify its intellectual property agreements with AMD, Nvidia, and Via so that those companies have more freedom to consider mergers or joint ventures with other companies, without the threat of being sued by Intel for patent infringement;
- offer to extend Via's x86 licensing agreement for five years beyond the current agreement, which expires in 2013;

- maintain a key interface, known as the PCI Express Bus, for at least six years in a way that will not limit the performance of graphics processing chips. These assurances will provide incentives to manufacturers of complementary, and potentially competitive, products to Intel's CPUs to continue to innovate; and
- disclose to software developers that Intel computer compilers discriminate between Intel chips and non-Intel chips, and that they may not register all the features of non-Intel chips. Intel also will have to reimburse all software vendors who want to recompile their software using a non-Intel compiler.

The FTC vote approving the proposed settlement order was 4-0, with Commissioner William E. Kovacic recused. The order will be subject to public comment for 30 days, until September 7, 2010, after which the Commission will decide whether to make it final. Comments should be sent to: FTC, Office of the Secretary, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. To submit a comment electronically, please click on:<https://ftcpublic.commentworks.com/ftc/intel/>.

**NOTE:** A consent agreement is for settlement purposes only and does not constitute an admission of a law violation. When the Commission issues a consent order on a final basis, it carries the force of law with respect to future actions. Each violation of such an order may result in a civil penalty of up to \$16,000.