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News

PROCESSORS

AMD CHARGES INTEL WITH BULLYING, BRIBING

Frustrated at failing to gain market share, chipmaker files suits in U.S. and Japan

ADVANCED MICRO DEVICES INC., frustrated with its failure to gain market share, took a big gamble last week. The chipmaker launched a multipronged legal attack in the United States and Japan against longtime rival Intel, charging that the world's leading maker of microprocessors bullies and bribes computer makers and retailers to keep them from using AMD chips. The gamble could pay off by opening new markets and generating painful fines against Intel for anticompetitive behavior. Or it could backfire by convincing potential customers that AMD, despite its recent technical successes, is a second-tier company afraid to compete.

The lawsuits filed in U.S. District Court on June 27 and in two courts in Japan on June 30 are just the latest legal salvos in AMD's decades-long battle against Intel. The suits filed last week cite numerous instances in which AMD says Intel has used "coercion and illegal payments" to force computer makers and retailers not to manufacture or sell systems based on AMD processors or to severely limit the number of such systems they offer.

Many of the practices described in the lawsuits, such as paying computer makers marketing funds, providing discounts, and granting rebates for using Intel chips exclusively, have been talked about within the industry for years. Even if true, it isn't clear that they're illegal. That means AMD faces a long, uphill battle if it hopes to win relief in court. Several past lawsuits that

AMD has filed against Intel have been settled out of court.

Hector Ruiz, chairman, president, and CEO of AMD, said last week that it's clear that Intel's "abusive behavior" has been keeping



Intel's "illegal, monopolistic practices" are limiting AMD's market share, Ruiz charged.

AMD from gaining market share over the past two years, despite the company's technological innovations of bringing 64-bit computing and dual-core processors to the x86 market. "In dollar revenue, we have [remained at] roughly 10% of the market for the last two or three years," Ruiz said. "We deserve to have a significantly larger share of the market, [and] the only thing that's keeping us from achieving those numbers is the illegal, monopolistic practices of our competitor."

Intel has bought exclusivity with Dell, the world's largest PC provider, according to AMD's suit, "with outright payments and favorable discriminatory pricing and service." The suit claims Dell executives have "frankly conceded that they must financially account for Intel retribution in negotiating pricing from AMD." Other major customers, such as Acer, Fujitsu, and NEC, were "forced" into partially exclusive agreements, the suit says, by conditioning rebates, allowances, and market-development funds on severely limiting purchases from AMD, including paying NEC several million dollars to ensure that Intel has at least 90% of NEC's business.

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AMD-INTEL BATTLES

1976 AMD and Intel sign first cross-licensing agreement.

1982 IBM selects Intel as the primary supplier of processors for its new line of PCs, with AMD to serve as a second source for the 8086 and 8088 chips.

1987 Intel terminates its second-source

agreement with AMD, setting into motion years of legal battles between the two companies.

1991 An arbitrator upholds AMD's right to manufacture the am386, a clone of Intel's 80386.

1995 AMD introduces the K5, its first independently designed, x86-compatible processor.

2003 AMD introduces the first 64-bit x86 processors.

2005 In April, Intel introduces dual-core PC processors, while AMD rolls out dual-core server processors. In June, AMD adds dual-core PC processors and files suit against Intel in the U.S. and Japan alleging illegal monopolistic business practices.

foothold. AMD said its share of Sony PCs dropped from 23% in 2002 to zero in 2003 after Intel allegedly paid millions of dollars for exclusivity.

Intel flatly denies AMD's charges. "AMD has chosen yet again to complain to a court about Intel's success with a legal case full of excuse and speculation," Intel president and CEO Paul Otellini said in a statement. "We strongly disagree with AMD's complaints. We're about competing fairly and believe consumers are benefiting from this vigorous competition."

To win, AMD will first have to prove that Intel has a monopoly. That's a legal definition that goes beyond the company's undeniable clout in the industry. "If a memory supplier tried some of these tactics, they'd be shown the door because there are three or four other suppliers just begging for the business," says Mike Feibus, an analyst with TechKnowledge Strategies.

The suits come as AMD wins some converts based on its chips' performance. Dan Gregoire, owner of visual-effects production studio Halon Entertainment, worked on the last two *Star Wars* movies for JAK Films, a preproduction company for LucasFilm Ltd. Halon wasn't getting the performance it needed while using Intel-based workstations when working on *Star Wars: Episode II—Attack Of The Clones*, Gregoire says. He contacted AMD, which led him to Verari Systems Inc., which sold him 30 workstations equipped with dual AMD Opteron processors.

"We had a couple of major sequences at the end of the film

that we had to get done quickly and needed as much processing power as we could muster," Gregoire says. With the AMD systems, "we gained increased rendering speeds and higher quality in texture and lighting, and mood and feel."

Amid some success in markets such as the movie industry, AMD still remains a niche player in the market for business servers, despite some share gains in the past year. AMD has seen its unit volume share of the server market grow from 5.5% in the third quarter of 2004 to 7.4% in the first quarter of 2005, according to Mercury Research. In the overall x86 market, AMD's unit volume share has grown from 14% in the first quarter of 2004 to 17% in the first quarter of 2005, Mercury says.

The gains AMD has managed in its share of the server market are due to "very strong-headed CIOs and IT professionals who really understand the industry and are able to demand their [computer makers] deliver product they want and need," Ruiz said.

Even its meager success in servers hasn't been duplicated in business desktop PCs. No major computer maker has debuted an AMD-based commercial desktop system. Roger Kaye, an analyst with IDC, describes a chicken-or-egg dynamic between customer demand and vendor offerings: PC vendors must spend a minimum of around \$10 million to design and market a commercial system and are reluctant to proceed without a guarantee of a market for a new processor.

Intel has had its share of legal headaches lately. A ruling in March by the Japan Fair Trade Commission that Intel committed violations of the Antimonopoly Act and an ongoing European Commission investigation of Intel make it appear that now is the time to press the legal battle, Kaye says. Also, AMD may hope for a replay of the April 2004 litigation settlement between Sun Microsystems and Microsoft, which resulted in Microsoft paying Sun nearly \$2 billion.

"I understand AMD's frustration," Feibus says. "They've had technology leads now for a couple of years, and it hasn't bought them squat. They have really been operating on all cylinders and haven't made any significant gains."

AMD's about to find out if a lawsuit will help it catch up—or send it sputtering into the pits.

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Microsoft And IBM End Dispute

● **Microsoft cleared up one more antitrust mess last week, agreeing to pay IBM \$775 million for damaging the prospects of its OS/2 PC operating system that once competed with Windows.**

The settlement comes out of findings by U.S. District Judge Thomas Penfield Jackson that IBM was hurt by Microsoft's anti-competitive practices. In addition to the payment, Microsoft will extend \$75 million in software credit to IBM.

The settlement resolves any charges of discriminatory pricing and overcharging related to OS/2 and IBM SmartSuite products but doesn't include claims related to servers. IBM agreed not to pursue any damages related to servers for two years, and it won't go back earlier than June 30, 2002.

The moves signal a desire by both companies to move past costly litigation. Microsoft last year spent \$2.5 billion to settle disputes with Sun Microsystems and Novell. An IBM spokesperson says the two vendors will continue to compete and cooperate and, of the lost OS/2 PC operating system, adds, "We're moving ahead beyond our past." — **MARTIN J. GARVEY**