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## Intel-Dell Dealings Under Fire

Pressure on Dell, as outlined in Cuomo's lawsuit, provides fresh insight into the marketing payments that regulators say left PC makers beholden to Intel

By [Arik Hesseldahl](#)

It was called the Mother of All Programs, or MOAP for short. That was the code name Intel ([INTC](#)) bestowed on a series of payments it made to Dell ([DELL](#)), one of its largest customers, over a five-year period through January 2007.

Now that \$6 billion in payments has become the mother of all predicaments for Intel, the world's largest computer-chip maker. New York Attorney General Andrew Cuomo, in a federal antitrust lawsuit, says Intel wielded those payments to coerce computer makers into using its chips instead of those made by Advanced Micro Devices ([AMD](#)).

Over several years, Intel used payments to a host of computer makers including Hewlett-Packard ([HPQ](#)) and IBM ([IBM](#)) as part of a "systematic campaign of illegal conduct" intended to harm AMD, according to the lawsuit. Cuomo's suit follows legal action by antitrust regulators in Europe, Japan, and South Korea who also allege that Intel used the payments to gain an unfair advantage over AMD.

Newly filed court documents in the New York Attorney General's case draw on extensive communication among senior executives at Dell and Intel and shed fresh light on Dell's increasing reliance on Intel money to meet financial targets. Capping an [investigation announced](#) in January 2008, the lawsuit also provides added insight into the accounting methods used by Intel to justify payments that prosecutors say had no legitimate business purpose, and the swift retribution that followed Dell's decision to begin using computer chips from AMD.

### INTEL LABELED PAYMENTS AS "REBATES"

At the crux of Cuomo's case, in an 87-page complaint filed with the U.S. District Court in Delaware, are payments Intel labeled as "rebates" to companies using its chips. Cuomo alleges the payments gave Intel leverage to induce PC makers to limit the use of AMD chips in personal computers and servers. Cuomo argues that these payments "bore no genuine relationship to pro-competitive volume-based discounts or reasonable efforts to meet specific competitive offers."

Intel denies the allegations and says the payments resulted in lower prices for customers. The company says most of the material cited in Cuomo's complaint duplicates arguments made by regulators in other parts of the world, as well as in a federal lawsuit filed by AMD. "We disagree with the New York Attorney General," says Intel spokesman Chuck Mulloy. "Neither consumers who consistently pay lower prices for PCs and computer power and get increased innovation, nor justice are being served by bringing this case at this time. Clearly we will defend ourselves." On Nov. 4, Intel shares rose 9¢ to 18.59.

The interplay between Dell and Intel, as outlined by Cuomo, provides a case study in the sometimes hardball negotiations at the heart of manufacturer-supplier ties, as well as what prosecutors say is the widening leverage gained by Intel as its payments to PC makers rose.

For Dell, an early increase came in 2002. After a July 9, 2002, meeting between Dell's then-COO Kevin Rollins and a top Intel executive, Rollins reported to Dell CEO and founder [Michael Dell](#) that Intel was willing to do "whatever it takes" to keep Dell from buying AMD chips, according to the complaint. Around that time, payments were set to increase from \$70 million to \$100 million.

## LAWSUIT ALLEGES DELL SOUGHT INCREASES

Dell sought at least two increases in 2004, according to the lawsuit. In April, Dell asked Intel to boost its payment by \$100 million, the lawsuit says, citing an internal Intel e-mail. Without the increase, Dell would have to "readjust their margin guidance downward," an Intel executive is quoted as saying. On Dec. 7, 2004, Dell's lead negotiator wrote an e-mail to an Intel executive saying then-Chairman Michael Dell wanted an additional \$400 million payment.

For the three-month period ended October 2004, Dell received \$304 million, amounting to 36% of the \$846 million profit Dell reported for that quarter.

A Dell spokesman declined to comment on the substance of the lawsuit and Dell's part in it, calling it "an Intel matter, not a Dell matter."

In 2006, Dell received \$1.9 billion. During two quarters that year, Intel payments even exceeded Dell earnings. In the quarter that ended in April, payments were \$805 million, compared with \$776 million in net income. For the quarter that ended in July 2006, Intel's payment amounted to 116% of net income.

Intel portrayed the payments as price cuts made in response to competitive offers from AMD, according to the court documents. Yet, they were "decoupled from particular products," the documents go on to say. Intel would determine the amount to be paid to Dell in a given period, then create a paper trail that would allocate portions of the payment to purchases of individual chips, Cuomo alleges.

## USE OF AMD CHIPS BLOCKED?

Whatever the justification given, the purpose of the payments was to make computer makers reluctant to buy chips from AMD, the lawsuit alleges. "Dell was being paid for holding AMD at bay," the complaint says. It cites a Dell document dated Feb. 27, 2003, as showing that Dell assumed that "aggressive" purchases of AMD chips by Dell would trigger retaliatory reductions in rebate payments that "could be severe and prolonged with impact to all lines of business." Another Dell document from March 2003 concluded that if Dell were to buy AMD processors, the likely Intel response would "wipe out" all potential operating income improvements that might result from adding AMD to its machines.

A Dell executive explained to colleagues in 2002 that any embrace of AMD would prompt Intel to shift the funding priorities to another PC company or "match whatever we're getting," the complaint says. Intel described this arrangement as "monogamy," the complaint says.

Rewards for Dell weren't just financial, according to Cuomo. In return for buying only Intel chips, Dell also received assurances that it would have access to a preferred supply of chips over competitors, the lawsuit alleges. Satisfying Dell's demand for chips was a top priority for Intel, while demand from other PC makers went unmet, according to the filing.

Over time, however, the allure of AMD grew, and amid speculation that Dell might end its Intel-only policy, exchanges between Intel and Dell executives became "increasingly emotional and frank," the complaint says. Dell became particularly enamored of AMD chips for servers, the powerful machines that run corporate networks, and grew concerned that its server business was suffering in relation to those of rivals IBM, Sun Microsystems ([JAVA](#)), and HP. "Each time Dell considered altering the arrangement and introducing an AMD line, Intel responded with both carrot and stick," the lawsuit says. Higher payments and threats of retaliation "kept the relationship in place," the complaint says.

## RELATIONSHIP BROKE DOWN IN 2006

By late 2005, enough was enough. During a November 2005 phone call, Michael Dell told Intel CEO Paul Otellini, "I am tired of losing business," according to a confidential e-mail cited in the complaint. Dell was losing high-margin server business to rivals using AMD chips, Dell lamented, according to the e-mail. "Dell is no longer seen as a thought leader," Dell complained.

Otellini's response in a follow-up e-mail later that month was that Intel's chips were improving day by day. He added

that Intel was sending Dell more than \$1 billion a year, more than enough to compensate Dell for its lost business, Otellini pointed out. Michael Dell persisted in an e-mail response. Dell was "losing the hearts, minds and wallets of our best customers," he said in an e-mail quoted in the complaint.

By April 2006 the Intel-Dell relationship was at a breaking point, the complaint says. When Dell introduced a range of products using AMD chips, the response from Intel was "severe," the complaint says. Then-Intel Chairman Craig Barrett made clear that Dell would be deprived of the payments it had been getting from Intel and no longer receive preferential treatment over rivals. "They have just signaled they are only interested in being a transaction-based customer," Barrett told Otellini, according to the complaint. "I think you should reply in kind. Not a time for weakness on our part. Stop writing checks immediately and put them back on list prices ASAP."

So, after receiving \$800 million from Intel in March and April of 2006, Dell received less than \$200 million from Intel from November 2006 to January 2007, after it had released its first AMD-based server.

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