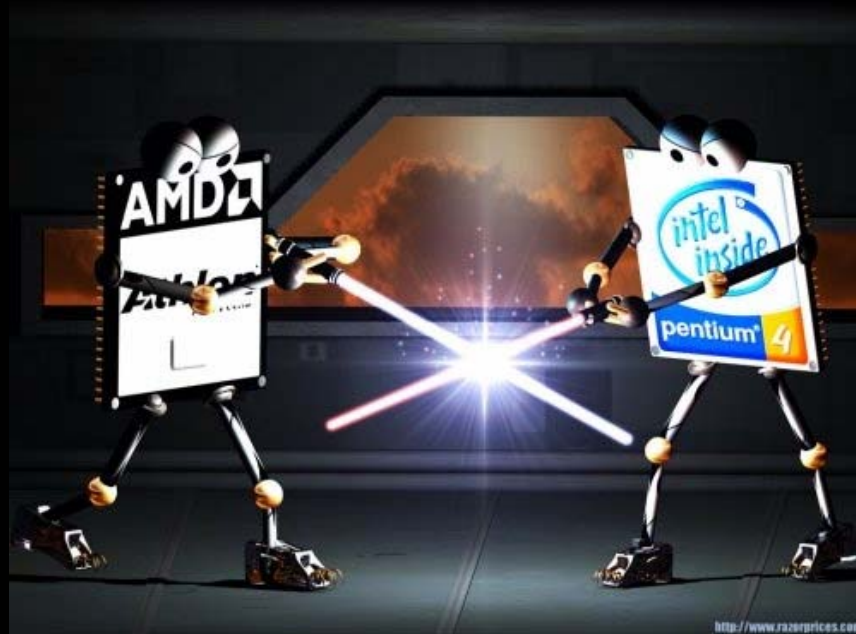


AMD vs. Intel

Antitrust Case



What is the semiconductor business? History, Company Profiles, Market Share

- Semiconductor Industry – What is a semiconductor?
 - Industry in which firms deal with the designing and fabricating of semiconductor devices
 - A semiconductor is a solid material that has electrical conductivity that is situated in between a conductor and an insulator
 - Semiconductors are powering devices that are key to making cellular phones, computer hardware, and other electronic components.
- Semiconductor Industry – World Market/ Structure
 - Dominated by United States, EU, Japan, and South Korea
 - A \$230 billion per year industry
 - US market face government regulation inhibiting growth
 - Research and Development intensive
 - Capital intensive
 - Economic stimulus for the electronics business, ~10% of world GDP

Semiconductor Industry Continued..

- Semiconductor Industry – Intel
 - #1 in semiconductor industry
 - Based in Santa Clara, CA
 - 86,300 employees
 - Revenue 2007: 38 Billion
 - 2007 Mercury Research: ~80% market share
- Semiconductor Industry – AMD
 - Intel's main competitor
 - Based in Sunnyvale, CA
 - 16,420 employees
 - Revenue 2007: 6 Billion
 - 2007 Mercury Research: ~18% market share

AMD-Intel: A Brief History and Introduction into the cases

- x86 chip: Most used chip in computers, Intel processors account for more than 80 percent of the computers running x86-based chips
- In the early 1980's IBM signed with Intel to develop microprocessor chip x86 but did not want to give Intel monopoly power so they demanded a contract with AMD as a second source
- Intel attempted to preserve the appearance that AMD was their second source while actually planning a sole-source project: secret plan for acquiring and maintaining monopoly in x86 microprocessors by 1987
- 1992-AMD awarded \$10 million after court case against Intel-prospective return to competition
- AMD's market share has not kept pace with their technological innovation.
- They claim Intel's misconduct is the reason.

AMD-Intel: A Brief History and Introduction into the cases

- Japan Case: illegal tactics by offering money to 5 Japanese companies
(NEC, Fujitsu, Toshiba, Sony, and Hitachi)
- EU Case: AMD alleges that Intel paid German retailers to sell Intel PC's only
- US Case: Making exclusive deals with Dell, Sony, Toshiba, Gateway and Hitachi that included cash payments, subsidies, discriminatory pricing to exclude AMD

Break Free

AMD has alleged that Intel...

- *is, in short, paying and pressuring computer manufacturers to boycott AMD.*
- **in doing this, Intel is breaking national and international “competition” or “antitrust” laws, laws that focus on:**
 - Prohibiting agreements or practices that restrict free trading and competition between business entities.
 - banning abusive behavior by a firm dominating a market, or anti-competitive practices that tend to lead to such a dominant position.
 - supervising the mergers and acquisitions of large corporations

Competition Matters

- Intel's response is "an attempt to divert attention from what this case is really about. Crossing swords of rhetoric is fun, but it's time to put the truth on the table in the courtroom. The industry problem is that [computer manufacturers and retailers] are under threats from retaliatory and potentially lethal price increases by Intel if they give too much business to AMD." - Thomas McCoy
- We applaud aggressive competition, so long as it occurs on a level playing field where products can compete on the merits. Unfortunately, this is not the case. Intel uses its monopoly power to perpetuate its monopoly grip on the market, and by any standard of antitrust law, that is illegal and patently anti-consumer.
- Worldwide antitrust laws are clear: Abusive conduct to curb competition by a dominant monopoly is against the law. That's why we've filed a lawsuit against Intel, to help AMD, our industry and consumers worldwide break free from a stranglehold that has deliberately restricted competition and slowed the pace of innovation.



-Hector Ruiz, CEO of AMD



Intel's Response

- Specifically, Intel points to AMD's "playing it safe ... with anemic investment in manufacturing capacity, leaving Intel to shoulder the burden of investment to enhance the usefulness of computers and enhance the market." In addition, Intel claims AMD has been "dogged" by a reputation of being unreliable as a supplier, has traditionally lagged in innovation, and has seen products delayed well beyond original launch dates.
- AMD only has itself to blame for failing in the marketplace
- When AMD delivered on time, it gained market share. Intel has no control over their delivery schedules; that is completely in AMD's hands, they just aren't living up to their customers and it shows with their market share.



Intel's Response Continued..

- Intel said it has demonstrated over a 30-year period that it can deliver faster, better, and cheaper products to consumers, in part because of its continued multibillion-dollar investment in new capacity and research and development even during downturns in the semiconductor market.
- "In short," Intel wrote in its response, "AMD's colorful language and fanciful claims cannot obscure its goal of shielding the company from price competition."

**"Intel's AMD Antitrust
Rebuttal: We're Not Bad,
You're Just Stupid"**

AMD and Intel International Antitrust Cases

According to market research company I.D.C.

Between 2003 and 2004

- AMD's market share in of Japanese computers dipped to 14% from 16%

By 2005

- Intel processors account for more than 80% of the computers running x86-based chips.

AMD in Japan files claim

June 2005

- Tokyo High Court and Tokyo District Court receive claim
- AMD Seeks \$50 million in damages
- Japanese Fair Trade Commission verified AMD's hunch of Intel interference with PC manufactures

AMD was right about Intel in Japan

July 2005

- The JFTC investigations turned up a deal between PC manufacturing companies, NEC, Fujitsu, Toshiba, Sony, and Hitachi, and el.
- These companies had agreed to only use Intel chips
- This deal is in violation of Japanese antimonopoly policy, and the manufacturing companies had to accept other x86 chip developers

German AMD claim Intel is violating antitrust laws

July 2006

- German AMD filed a claim that Intel teamed with Media Markt, a retailer of PC's

September 2006

- The European Commission investigates the German Intel and Media Markt deal

AMD keeps pressuring EC

July 2007

- The European Commission finds Intel and Media Markt guilty of breaking antitrust laws

Feb 2008

- The deal between Intel and MM is still under investigation

US Antitrust Case: AMD vs. Intel

- Filed in United States District Court of Delaware
- AMD claims that Intel "unlawfully maintained its monopoly by engaging in a relentless, worldwide campaign to coerce customers to refrain from dealing with AMD" for more than ten years.

AMD file antitrust lawsuit against Intel in United States District Court in Delaware

- "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"
-Thomas McCoy, AMD's executive vice president of legal affairs and chief administrative officer, said in a statement.

Nature of the Action

- AMD competes with Intel in a global market, but Intel holds undeniable market power (90% of all sales)
 - unlawfully maintained monopoly power by :
 - Forcing major customers into exclusive deals with Intel through discriminatory pricing, cash payments or subsidies conditioned on exclusion of AMD
 - Forcing other major customers into partial exclusivity agreements by conditioning rebates, allowances and market development funds on customers agreement to severely limit or forego entirely purchases from AMD
 - Establishing a system of first dollar rebates triggered by purchases at such high levels as to have the intended effect of denying customers freedom to purchase any significant volume of processors from AMD

Nature of the Action Continued..

- Forcing PC makers and tech processors to boycott AMD product launches or promotions
 - And abusing its market power by forcing on the industrial technical standards and products which have as their main purpose the handicapping of AMD in the marketplace
-
- Intel's conduct has unfairly and artificially capped AMD's market share and constrained it from expanding to reach minimum efficient level of scales necessary to compete
 - Computer manufactures continue to purchase most of their requirements from Intel and continue to pay monopoly prices
 - Consumers ultimately foot this bill in form of inflated PC prices and loss of freedom to purchase computer products that best fit their needs

US Antitrust Lawsuit Timeline

- June 2005: AMD files a 48-page antitrust complaint in U.S. federal district court
 - Intel Corporation has unlawfully maintained its monopoly in the x86-microprocessor market through worldwide coercion of customers to refrain from dealing with AMD
- April 2006: Lawyers for both parties meet in court for an initial status conference.
- Sep. 2006: Intel attempt to limit case to business practices within country
 - The U.S. court grants Intel's motion to dismiss claims arising from AMD's sale of German-made microprocessors to foreign customers
- Dec.2006: AMD victory in court ruling: Intel documents pertaining to international business practices applicable to case
 - Since 68% of the computers containing x86 processors are sold to customers abroad, evidence about Intel's "foreign conduct" was "essential" to allowing AMD to make out its case to demonstrate that Intel has violated U.S. antitrust laws

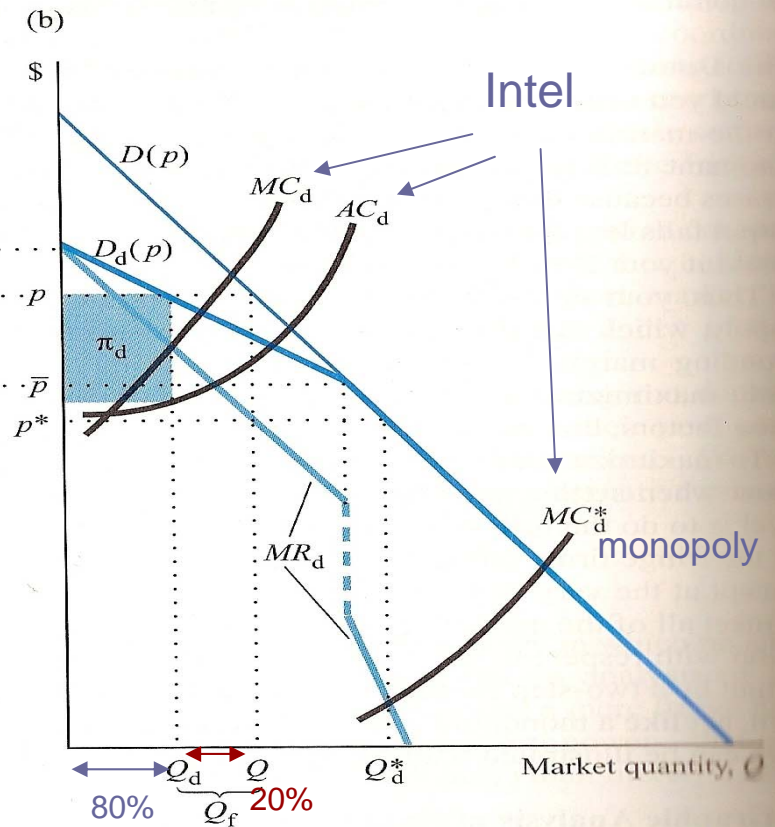
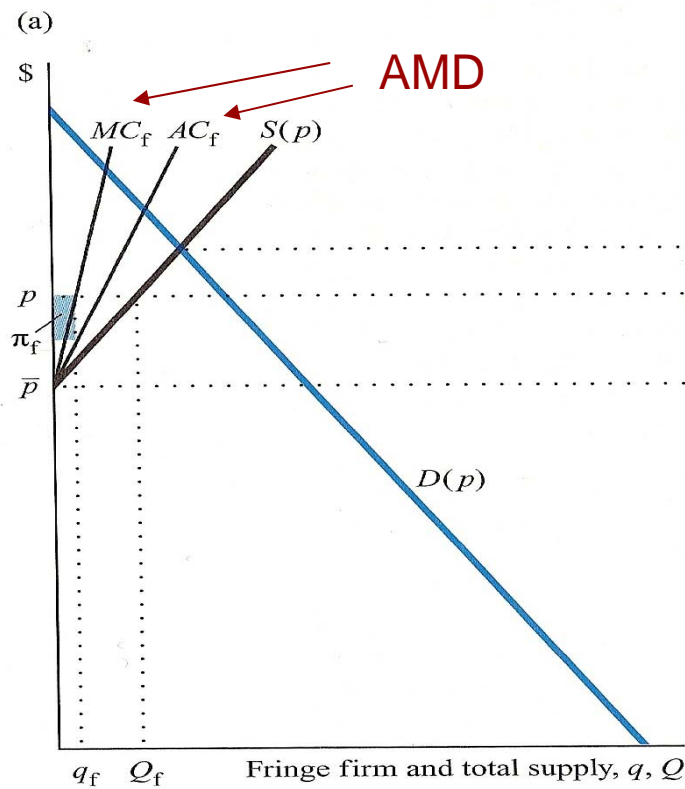
Timeline Continued...

- March 2007: Intel accused of withholding information-loss of potentially massive amounts of critical evidence
 - Email correspondence generated and received by top Intel executives and other employees since the filing of the lawsuit and many other relevant electronic documents may be irretrievably lost. Among its mistakes, Intel relied on a highly risky preservation "honor system" which allowed an automated email purge system to continue throughout litigation and gave incomplete or unclear instructions to its custodians on how to preserve files.
- April-May 2007: Intel required to submit report and remediation plan in regards to lost evidence
 - Explanation of what caused lapses in evidence preservation, and their proposal for attempting to recover lost evidence, including e-mails from many executives. Legal counsel for Intel ultimately agrees to preserve documents detailing their own involvement in the creation and maintenance of Intel's document preservation apparatus

Current

- January 2008: The allegations of Intel's anticompetitive conduct have not yet been proven or rejected in a court, "but with worldwide scrutiny growing, the Intel case has become the landmark monopolization case of the twenty-first century. It is significant because the market is global and there are only two competitors, with no anticipation of new entry.
- January 2008-Present: The present court case has spurred other allegations and court cases against Intel
 - New York Attorney General Andrew M. Cuomo served a wide-ranging subpoena seeking documents and information on Intel Corporation. Cuomo is investigating whether Intel violated state and federal antitrust laws by coercing customers to exclude its main rival, Advanced Micro Devices (AMD), from the worldwide market for x86 computer processing units
 - New Class Action Complaint filed in Idaho: According to the complaint, Intel engaged in acts that include: the use of discriminatory rebates that have the effect of denying customers the freedom to purchase any significant volume of processors from AMD and others." – [Competition Law 360*](#)

Dominant Firm with Competitive Fringe



Economic Study of how much Intel Benefits

- Done by Dr. Michael A. Williams of ERS Group
- From 1996-2006 Intel has extracted more than \$60 billion in monopoly profits

- Intel's Total Profits (total return 25.95%) \$141.8 billion
- Competitive Profits (cost of capital 9.94%) - \$54.2 billion
- Result: Economic Profits (economic return 16.01%) \$87.7 billion
- Portion of Economic Profits Attributed to Assumed Advantages (5.0%) - \$27.3 billion
- **Result: Monopoly Profits (11.01%) = \$60.4 billion**

How much can consumers benefit if Intel has fewer market share?

- Intel microprocessor ASP – 2006 \$121.12
- Intel microprocessor ASP – 2011 (projected) - \$101.30
- Total price reduction for computer manufacturer: \$19.82 (16 percent less)
- Savings passed on to consumer: 75%
- Total consumer savings per computer: **\$14.87, or 1.5% of a \$1000 performance desktop computer**
- Over the next decade, over \$80 billion can be saved from free competition: \$61 billion for consumers and \$20 billion for computer manufacturers

This has happened before...

On May 18, 1998, the United States Department of Justice, and the Attorney General of 20 States and the District of Columbia sued Microsoft.

Allegations against Microsoft:

- Illegally monopolized the market for operation systems for personal computers.
- Had anti-competitive contractual arrangements with various vendors of related goods, such as with computer manufacturers and internet service providers and had taken other actions to preserve and enhances its monopoly.
- Illegally attempted to monopolize the market for Internet Browsers.
- Microsoft bundled its internet browsers anti-competitively with its operating system.

Similar to Intel: ***Paying and pressuring computer manufacturers to boycott Microsoft's competitors.***

Microsoft's defense

Microsoft Defense:

- Microsoft can legally add new features and functions to windows. The browser is merely a feature, and not a product since consumers are paying for the operating system and not the browser.
- Microsoft was merely competing and such competition is welfare-enhancing.
- Consumers benefit from Microsoft's actions because of its low pricing operating system, zero pricing of its browser, and its enhancements and acceleration of the innovation process.

Like Intel:

Microsoft's production is better than its competitors and its actions have benefitted the tech industry and its consumers.

Final Judgment

- Microsoft shall not retaliate against an OEM for using software that is competing with the Microsoft platform.
- Microsoft will charge set royalties.
- Shall not restrict OEM licensees as decreed in the final judgment.
- Microsoft would have to make available to third parties its systems, records, and source code in order to ensure compliance.

Significance of this case...

“From now on the computer industry, which has been very fortunate in that it has been relatively free of government intrusion, will experience a continuous increase in government regulation. Antitrust very quickly becomes regulation.” – Milton Friedman

Possible Outcomes

- AMD Wins (4) : AMD Loses (2)
- Intel loses and is forced to stop its anti-competition activities as seen in Japan and Germany cases
- Incomplete proof of Intel's monopolistic practices, so Intel will be warned to abstain from such activities or possibly face severe consequences
- Intel will be fined heavily, but they will find every possible way not to pay