

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

VLSI TECHNOLOGY LLC,
Plaintiff,

v.

INTEL CORPORATION,
Defendant.

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W:21-CV-00057-ADA

NOTICE OF TRIAL PROCEDURES

In anticipation of trial on February 16, 2021, the Court notifies the parties of the following trial procedures, which the Court employs to maximize safety and social distancing during trial:

- Trial will commence at 9:00 a.m. in the United States District Court, 800 Franklin, Waco, Texas 76701. Public parking is available.
- The United States Courthouse in Waco is large enough to permit the jury venire panel to remain at least six feet apart at all times.
- In its jury summons, the Court informed prospective jurors that (1) jury selection will be conducted in the district courtroom, which is large enough to accommodate this jury panel with recommended social distancing; (2) they should bring a face covering; (3) if selected, jurors will be distanced more than six feet apart at all times; (4) all rooms will be cleaned and disinfected before their arrival, and hand sanitizer will be available; (5) bathroom breaks will be lengthened to ensure physical distancing; and (6) no one should report for duty if they feel ill, have any flu-like symptoms, are experiencing shortness of breath, have a fever, are coughing or sneezing, have been asked to self-quarantine by any hospital or health agency, or have had close contact with anyone who has been diagnosed with COVID-19. Jurors have also completed and returned a form addressing their ability to participate, which included questions regarding COVID-19. The Court has excused jurors who sought to be excused based on COVID-19-related concerns.
- Before entering the building, panel members will be instructed to wear a face covering. The Court expects to take panel members' temperatures, and anyone with a fever will be excused from service. The Court will provide gloves for those who would like them, along with hand sanitizer.
- Before voir dire begins, the Court will give each panel member a clear face shield and will instruct the jurors to wear the shields and N-95 masks throughout voir dire. When

answering questions, jurors may remove their masks, but not their face shields, if the attorneys would like to see the jurors' faces.

- The Court will provide the parties an opportunity to do a general and individual voir dire at the Court's discretion. The Court will provide the parties with a diagram of the room that identifies the jurors and their seat assignments.
- If necessary, the Court, counsel, and the court reporter may step out of the room to conduct any bench conferences and resolve any motions to strike.
- After seven jurors are selected, the Court will dismiss the remaining panel members from service in this case.
- To eliminate the need to leave the building to eat lunch, the Court will enter a jury-sequestration order and will provide the jurors' lunch. The jurors will be able to maintain social distancing during lunch.
- During trial, the jurors will sit in the jury box at least six feet from one another. Jurors will have the option of wearing face shields or N-95 face masks. The parties will sit facing the gallery and will wear masks or shields while not speaking. Witnesses will testify from the jury box and will not wear masks, but the witness will be separated from others in the courtroom by a plexiglass barrier. If necessary, bench conferences may be moved to chambers.
- Throughout the trial, the Court will keep the courtroom doors open to maximize ventilation.
- The Court will provide a large air purifier to promote healthy air flow within the courtroom.
- Although seating will remain available to the public in the courtroom, an audio feed will be available in an overflow room. Court security officers will notify any observers of this option. Additionally, if a member of the public would like to listen to the trial but cannot attend in person, the Court can provide remote access.
- The parties have further agreed to abide by the COVID-19 Protocol below:

COVID -19 SAFETY PROTOCOL

In order to provide a safe environment for all parties and other trial participants, the Court has approved the following COVID-19 safety protocol proposed by the parties.

1. Safety Procedures Applicable to Party Participants (Parties, Counsel, Support Staff, and Party-Affiliated Witnesses) Who Enter the Courthouse

All party-affiliated trial participants (both from in-state and out-of-state, including attorneys, staff, witnesses, and party representatives) shall be expected to adhere to CDC guidelines. For party-affiliated trial participants:

(A) COVID-19 Testing

a. Pre-Trial PCR Testing

Unless cleared by a licensed physician or as excused by the Court, all party-affiliated trial participants (both from in-state and out-of-state, including attorneys, staff, party witnesses, and party representatives) shall be PCR tested for COVID-19 within five (5) days prior to their first appearance at the Courthouse (including, without limitation, appearance at voir dire or other proceedings) and with confirmed negative results prior to entering the Courthouse.

b. Daily Testing

In addition to the PCR testing discussed above, there will be mandatory COVID-19 testing each trial day by rapid antigen or PCR testing for all party-affiliated trial participants who enter the Courthouse, except those cleared by a licensed physician in (1)(A)(a) or as excused by the Court. Each party-affiliated trial participant must receive a confirmed negative result from such test prior to entering the Courthouse. Testing for party-affiliated trial participants may be conducted either that morning prior to trial or the day prior to entering the Courthouse. The parties may arrange for such testing to take place

at a designated area around the Courthouse or may arrange for their own testing (e.g., at their hotel space).

c. Notification

In the event that any party-affiliated trial participant (from in state or out of state, including attorneys, staff, witnesses, and party representatives) receives a positive COVID-19 test result after traveling to Texas or after meeting in person with any participant in the trial, the party with whom that individual is affiliated will notify the Court and the other party immediately that an individual affiliated with that party has received a positive test. The party may but need not disclose the identity of the affected individual but will in good faith cooperate with the other party to provide information sufficient to identify whether and to what extent others have been in contact with the affected individual, including, at least, whether the affected individual previously was in the Courthouse or was in a shared hotel or preparation space with any other of the party's trial participants.

(B) Use of PPE by Party Participants

All party-affiliated trial participants are encouraged to use an N95 mask or a generally equivalent mask to be worn at all times in all shared spaces except by (1) the questioning and/or presenting attorney during his/her questioning, opening statements, and closing arguments, while maintaining an at least 10-foot distance from all other persons; (2) a witness while testifying in the witness box surrounded by plexi-glass or other similar protective barrier. Such persons are encouraged to wear face shields while they are not wearing masks, and that the parties provide a suitable microphone and amplification system for those individuals.

A mask is not required while a trial participant is eating or drinking, provided that

he or she does so in a responsible manner and keeps at least a 6-foot distance from all other persons.

(C) Social Distancing by Party Participants

All party-affiliated trial participants shall endeavor to adhere to social distancing requirements, including keeping an at least 6-feet of distance from other trial participants and limiting Courthouse elevator occupancy to a maximum of two (2) riders at a time.

2. Safety Procedures for the Jury and Other Non-Party Trial Participants

(A) Rapid COVID-19 Testing Available Free of Charge to Jurors and

Court Personnel

a. Testing Procedure

COVID-19 rapid antigen testing will be made available for jurors, the Court and its staff, and any non-party witnesses each morning of trial prior to the start of the trial day as practicable.¹ COVID-19 testing will take place at a location within walking distance of the Courthouse, and would be administered by one or more registered nurse(s) unaffiliated with either party.

Testing is expected to take approximately five (5) minutes per tested individual, with results available approximately 15 minutes after testing.

Individuals are not allowed to enter the Courthouse until a negative test result has been received by any individual who has opted to be tested. Any individual who receives a positive result may opt to be re-tested to help rule out a false positive.

¹ This testing would also be available each morning to party affiliated trial participants. Expenses associated with rapid testing and other safety procedures for the jury and non-party trial participants shall be shared equally by both parties.

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