

1 **WO**

2

3

4

5

NOT FOR PUBLICATION

6

IN THE UNITED STATES DISTRICT COURT

7

FOR THE DISTRICT OF ARIZONA

8

9

Paul C. Du Hart,

)

No. CV-08-2008-PHX-FJM

10

Plaintiff,

)

ORDER

11

vs.

)

12

Intel Corporation,

)

13

Defendant.

)

14

)

15

We have before us defendant Intel Corporation’s motion to dismiss and alternative motion for more definite statement (doc. 17). Plaintiff has not responded to the motion and the time for doing so has passed. Under LRCiv 7.2(i), if a party “does not serve and file the required answering memoranda . . . such noncompliance may be deemed a consent to the denial or granting of the motion and the Court may dispose of the motion summarily.”

16

17

18

19

20

21

Defendant moves to dismiss the complaint under Rule 12(b)(2) and (5), Fed. R. Civ. P., because service of process was untimely. By order dated April 1, 2009, we extended plaintiff’s deadline to effect service under Rule 4, Fed. R. Civ. P., until May 1, 2009 (doc. 13). Plaintiff complied with our order and returned the summons executed on April 29, 2009 (doc. 15). Accordingly, we deny defendant’s motion to dismiss.

22

23

24

25

26

Defendant moves in the alternative for a more definite statement under Rule 12(e), Fed. R. Civ. P. “A party may move for a more definite statement of a pleading to which a responsive pleading is allowed but which is so vague or ambiguous that the party cannot

27

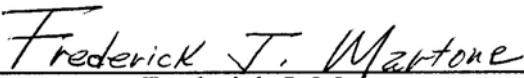
28

1 reasonably prepare a response.” Fed. R. Civ. P. 12(e). We will grant defendant’s request for
2 a more definite statement and order that plaintiff file an amended complaint setting forth the
3 factual and legal bases for this action in numbered paragraphs “each limited as far as
4 practicable to a single set of circumstances.” Fed. R. Civ. P. 10(b). Plaintiff will have to and
5 including July 16, 2009 to file an amended complaint. If an amended complaint is not filed
6 by that date, this action will be dismissed under Rule 12(e), Fed. R. Civ. P.

7 Therefore, **IT IS ORDERED DENYING** defendant’s motion to dismiss **AND**
8 **GRANTING** defendant’s alternative motion for more definite statement (doc. 17).

9 DATED this 26th day of June, 2009.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



Frederick J. Martone
United States District Judge