

# Exhibit 2

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF NEW MEXICO

No. 10-CV-01077

STC.UNM

Plaintiff,

vs.

INTEL CORPORATION

Defendant,

**COPY**

Videotaped Deposition of KEVIN BIEG

November 17, 2011

9:08 a.m.

201 Third Street N.W., Suite 1850  
Albuquerque, New Mexico

PURSUANT TO THE APPLICABLE RULES OF CIVIL

PROCEDURE this deposition was:

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Page 2

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Page 4

1	Exhibit No. 91 Letter	41
2	Sept. 3, 1993 to	
3	Quintana/Ojancn	
4	SNL141-142	
5	Exhibit No. 92 Letter	42
6	Sept. 21, 1993 to	
7	Ojancn/Quintana	
8	STC 0076907	
9	Exhibit No. 93 Letter	43
10	Dec. 1, 1993 to	
11	Quintana/Chafin	
12	SNL170	
13	Exhibit No. 94 Letter	45
14	Dec. 16, 1993	
15	to Olsen/Quintana	
16	SNL171	
17	Exhibit No. 95 Memorandum	46
18	Oct. 1, 1996 to	
19	Gottlieb/McMillan	
20	SNL235-236	
21	Exhibit No. 96 Letter	48
22	Jan. 6, 1994 to	
23	Quintana/Cone	
24	SNL194	
25	Exhibit No. 97 Letter	52
26	Aug. 4, 1997 to	
27	Quintana/Sobelman	
28	SNL237-241	
29	Exhibit No. 98 Notice of	53
30	Recordation	
31	SNL7-10	
32	Exhibit No. 99 Email	58
33	July 29, 2005 to	
34	Baird/Kemp	
35	SNL374-376	
36	Exhibit No. 100 Email to	61
37	Adams/Kemp	
38	SNL379-380	

Page 3

1	INDEX	
2	EXAMINATION OF KEVIN BIEG	
3	BY MR. FERRALL	7
4	BY MR. VOGT	78
5		
6	INDEX TO EXHIBITS	
7		
8	Exhibit No. 83 MOU/Intellectual	22
9	Property	
10	SNL337-349	
11	Exhibit No. 84 Funds-in	26
12	Agreement	
13	SB 00101592-602	
14	Exhibit No. 85 Request for	30
15	Cert. of Correction	
16	65558DOC000280-281	
17	Exhibit No. 86 Purchase Order	34
18	and Correspondence	
19	SB00101466-470	
20	Exhibit No. 87 Face Sheet and	35
21	Amended Statement	
22	of Work	
23	SB 00101603-608	
24	Exhibit No. 88 PALS Data Base	36
25	Information	
26	SNL72-74	
27	Exhibit No. 89 Notice of	39
28	Invention	
29	Disclosure SNL137	
30	Exhibit No. 90 Notice of	40
31	Invention	
32	Disclosure SNL138	

Page 5

1	Exhibit No. 101 Commercialization	
2	Agreement	
3	SNL242-245	
4	Exhibit No. 102 Email	66
5	April 24, 2009 to	
6	Baird/Howard	
7	SNL385	
8	Exhibit No. 103 Email	66
9	April 24, 2009 to	
10	Golden/Baird	
11	SNL391-392	
12	Exhibit No. 104 Memo to	68
13	Morgan/Baird	
14	SNL248	
15	Exhibit No. 105 Email	69
16	to Allen et al.	
17	/Kemp June 22, 2009	
18	SNL395-397	
19	Exhibit No. 106 License	70
20	Admin. Schedule	
21	SNL253-254	
22	Exhibit No. 107 Letter	71
23	Dec. 3, 2009 to	
24	Allen/Kuuttilla	
25	SNL250	
26	Exhibit No. 108 Letter	72
27	May 4, 2010 to	
28	Allen/Kuuttilla	
29	SNL257	
30	Exhibit No. 109 Letter	72
31	May 4, 2010 to	
32	Allen/Kuuttilla	
33	SNL258	
34	Exhibit No. 110 Letter	73
35	Mar. 7, 2011 to	
36	Allen/Kuuttilla	
37	SNL261-263	

Page 22

1 (Exhibit No. 83 - MOU/Intellectual Property SNL337-349.)  
2 Q So, we have marked as Exhibit 83 a document that  
3 appears to be an MOU on intellectual property that has  
4 control numbers SNL337 to 349. And do you recognize this,  
5 Mr. Bieg?  
6 A Yes, I drafted it.  
7 Q Okay. So, this is the MOU that we have been  
8 referring to a little bit already today?  
9 A Right.  
10 Q You had responsibility for drafting it?  
11 A Yes, based upon an earlier version of it.  
12 Q What do you mean by that? Was there earlier --  
13 A There was an earlier version which I think  
14 actually may be referenced in here somewhere. But there was  
15 an earlier version than this, which probably was -- probably  
16 predated this one by five years.  
17 Q Do you know if that version was produced?  
18 A I don't think so, no.  
19 Q Do you know if you still have it?  
20 A I am sure I can find a copy of it, yeah.  
21 Q I think we would like that produced if you can.  
22 A Okay.  
23 (Request for Documentation.)  
24 MR. STELZNER: Do me a favor, since I am fading  
25 fast. Just send me an email and if you don't mind copy

Page 23

1 counsel as well.  
2 MR. FERRALL: Yeah.  
3 Q Do you recall any major changes between this one  
4 and the MOU in the prior version?  
5 A I don't think there were substantial changes. I  
6 think there were some but not substantial.  
7 Q While we have this out, let me just ask you one  
8 thing here. This refers to a contract number  
9 DE-AC04-94AL8500.  
10 A Right.  
11 Q One thing I am struggling with is understanding  
12 these different contracts and who they are with. Can you  
13 explain what that contract is?  
14 A This is a prime contract between Department of  
15 Energy and Sandia Corporation for the operation of Sandia  
16 National Laboratories. 94 indicates that it was executed  
17 about in 1994, which is the time that Lockheed Martin took  
18 over operation of Sandia.  
19 Q And those contracts run, you said, 10 years or  
20 something.  
21 A Something like that. It is up for renewal, I  
22 don't know, it is up for renewal at the end of this next  
23 calendar year.  
24 Q And, do you know -- well, strike that. Prior to  
25 this contract, the 8500 contract, there was some predecessor

Page 24

1 contract between Department of Energy and Lockheed Martin,  
2 right?  
3 A Yeah. The predecessor contract was with AT&T who  
4 operated Sandia National Labs since the end of World War II.  
5 Q All right.  
6 MR. VOGT: You mind if I ask a question?  
7 MR. FERRALL: Go ahead.  
8 MR. VOGT: Do you know that contract number of the  
9 predecessor contract?  
10 THE WITNESS: I can find it. I wrote it down  
11 yesterday because it came up in Bruce'. Oh, yes. That is  
12 it. That is the prior prime contract.  
13 MR. STELZNER: Read it into the record.  
14 THE WITNESS: DE-AC04-76DP00789.  
15 (Discussion off the record.)  
16 Q (By Mr. Ferrall) Was the prior contract  
17 produced to us in the case, do you know?  
18 A No.  
19 Q Do you believe you still have it?  
20 A I am sure we can find it.  
21 MR. FERRALL: I will put that on the list.  
22 (Request for Documentation.)  
23 Q (By Mr. Ferrall) So, can you explain to me  
24 generally how intellectual property that is  
25 developed by Sandia employees is owned by Sandia

Page 25

1 and/or the Department of Energy?  
2 A Yeah. The first order, the Department of Energy  
3 owns anything that is created at Sandia National Lab  
4 according to the Atomic Energy Act. I think it is referred  
5 to in here. I think it is 42 USC 5908 and it is an  
6 automatic vesting statute. So, then in addition to that, we  
7 have what Bruce talked about yesterday is the Proprietary  
8 Information and Innovation Agreement which employees signed  
9 after Lockheed Martin took over. You indicated yesterday  
10 the date he signed his was like October, 1993. That was  
11 about the time that Lockheed Martin took over.  
12 So, since that time, all new employees have signed  
13 that PIA, we call it, which assigns their rights to Sandia  
14 and then, in addition, when a particular patent, for  
15 example, patent application is filed, we have them file an  
16 assignment as well, which assigns whatever rights they have  
17 remaining to Sandia. The prime purpose of that, really, is  
18 to have a document we can record at the PTO.  
19 Q So, going back to the first part of your answer,  
20 which is you said the Department of Energy gets an automatic  
21 vesting. Where does that leave Sandia, then?  
22 A Yeah. So the part that I left out is we have a  
23 process called a waiver process and the waiver you can see  
24 on the DOE website. Basically, when we want to take title  
25 to an invention, we do it under this waiver process. We

Page 26

1 request DOE to waive title to Sandia and most times they do  
2 that unless there is some like national security sensitivity  
3 or some such thing.  
4 Q So, if I understand, DOE waives title so Sandia  
5 takes the title that would otherwise be vested in the DOE?  
6 A Correct.  
7 Q And are you aware that that is what happened with  
8 respect to the 321 patent?  
9 A That did happen, yes.  
10 (Exhibit No. 84 - Funds-in Agreement SB 00101592-602.)  
11 Q So, Exhibit 84 is a multi-page document that has  
12 control numbers SB101592 to 602. And, as you can tell,  
13 maybe from the stamp, this was produced by Dr. Brueck but it  
14 appears to be documents that would have been exchanged  
15 between UNM and the Department of Energy, at least. I am  
16 wondering if you're familiar with documents such as this,  
17 Exhibit 84?  
18 A Yes, I am. I believe we produced part of this  
19 document ourselves, actually.  
20 Q Maybe I just missed your production of it. Can  
21 you explain what this is.  
22 A Let's see. To my knowledge, this is a funds-in  
23 agreement or work-for-others agreement, where basically the  
24 University of New Mexico in this case was sending us funds  
25 to do some prescribed work, which is defined, I think, in

Page 27

1 the Statement of Work that is probably attached to this.  
2 Q So, this refers to another contract number on the  
3 top of the second page, DE-FI04-93AL83300. Right?  
4 A Correct.  
5 Q Is there something about that contract number that  
6 indicates what type of contract it is; do you know? Can you  
7 tell from the contract number?  
8 A Let's see. I am not in the contract organization.  
9 About the only thing that I would infer from that, I think,  
10 93 indicates the year. AL probably means it went through  
11 the DOE Albuquerque operation office. That would be my  
12 guess.  
13 Q I was wondering whether the FI refers to funds-in?  
14 A I would guess it does but I don't know for sure.  
15 Q So, these type of agreements, which I think you  
16 referred to earlier today as a work-for-others agreement  
17 also; the same type of agreement?  
18 A Correct.  
19 Q Those are between a third party and DOE?  
20 A Let's see. So, I think the funding comes through  
21 DOE and DOE has to approve all these. But so we're -- let's  
22 see -- the contract is actually, I guess, with Sandia  
23 Corporation. I mean, we're contracted to do some work but  
24 because we're a go-co or something like that, I am not sure  
25 exactly how the funds gets into Sandia. I think it has to

Page 28

1 go through DOE and then to us.  
2 Q So, for example, the first page indicates an  
3 amount of \$134,167. And that is an amount that is going to  
4 be paid to DOE?  
5 A It will be -- let's see -- eventually it will get  
6 to Sandia and support work at Sandia; right.  
7 Q And how it gets there, you're not exactly sure?  
8 A Not exactly sure.  
9 Q Now, attached to the Purchase Order and let's call  
10 it the face page, I guess, are some appendices. Are you  
11 familiar with these appendices?  
12 A Somewhat. I am somewhat familiar with the terms  
13 of work-for-others agreements. I haven't actually studied  
14 this particular one.  
15 Q Do you know who prepares these appendices? Is it  
16 DOE or Sandia?  
17 A I believe these are standard appendices with our  
18 work-for-others agreements. They are agreed upon with the  
19 Department of Energy and usually if somebody wants to make a  
20 change to it, DOE has to approve of that change. We have a  
21 group in Sandia that works these work-for-others agreements  
22 both with what we call nonfederal entities, which the  
23 University would be, or other federal entities, like the  
24 Department of Defense.  
25 Q Now, this contract number that is listed on Page

Page 29

1 2, are you aware as to whether that contract number  
2 reflects -- strike that. Let me rephrase that.  
3 Are you aware whether the 321 patent was  
4 conceived, if you will, pursuant to work under this Contract  
5 No. 83300?  
6 A Yes. I don't think I can answer that directly. I  
7 can tell you -- I mean, all I have is what is on the record.  
8 So --  
9 Q From your review of the Sandia's records, what do  
10 you know?  
11 A Relying upon Bruce Draper's TA, I would say, no.  
12 Q Did you review any other record for that?  
13 MR. STELZNER: For that answer?  
14 MR. FERRALL: That question.  
15 A I have looked at the documents that have been  
16 produced. I am aware, and as I say, those are primarily out  
17 of our patent files.  
18 MR. FERRALL: Let me --  
19 MR. STELZNER: I thought that was what you were  
20 looking for.  
21 MR. FERRALL: I wasn't, but I'll ask him a  
22 question about that.  
23 Q So, your counsel has helped me by finding Exhibit  
24 72, the Technical Advance that Mr. Draper spoke about and  
25 what is it about that document that suggests to you that the

1 In Re: STC.UNM v. INTEL (Bieg Deposition)

2 DEPONENT SIGNATURE/CORRECTION PAGE

3 If there are any typographical errors to your  
4 deposition, indicate them below:

5 PAGE LINE

6 9 20 the principal Change to in principle

7 11 21 tech transport Change to tech transfer

8 18 11 right no Change to right to

9 Any other changes to your deposition to be listed  
10 below with a statement as to the reason for change.

11	PAGE	LINE	CORRECTION	REASON
12	30	3	change: "successor" to "predecessor"	factual correction

13

14

15

16

17

18 I, KEVIN BIEG, hereby certify that I have read

19 the foregoing pages of my testimony as transcribed,

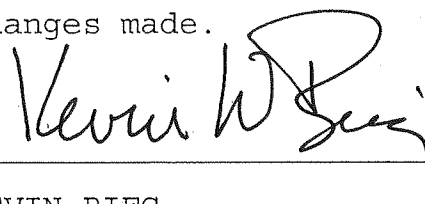
20 that same is a true and correct transcript of the

21 testimony given by me in this deposition, except for the

22 changes made.

23

24

  
\_\_\_\_\_

25 KEVIN BIEG

1 UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF NEW MEXICO

3 No. 10-CV-01077

4 STC.UNM

Plaintiff,

5 vs.

6 INTEL CORPORATION

Defendant,

8

9

10 CERTIFICATE OF COMPLETION OF DEPOSITION

11

12 I, Marcia J. Schick, 110 2nd Street S.W., Suite 505,  
13 Albuquerque, New Mexico, 87102, DO HEREBY CERTIFY that on  
14 November 17, 2011 the deposition of KEVIN BIEG, was taken  
15 before me at the request of, and sealed original thereof  
16 retained by:

17

BRIAN L. FERRALL

18

19

20

I FURTHER CERTIFY that copies of this certificate have  
been mailed or delivered to the counsel and parties not  
represented by counsel appearing at deposition.

21

22

23

24

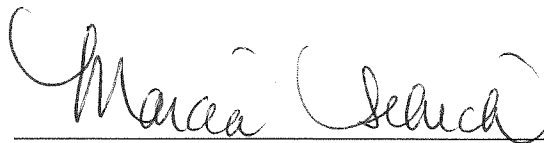
25

1 I FURTHER CERTIFY that examination of the transcript  
2 and signature of the witness was requested.

3 I FURTHER CERTIFY that the recoverable cost of the  
4 deposition to BRIAN L. FERRALL is \$\_\_\_\_\_ .

5 I FURTHER CERTIFY that I did administer the oath to  
6 Witness herein prior to the taking of deposition; that I did  
7 thereafter report in stenographic shorthand the questions  
8 and answers set forth herein, and the foregoing is a true  
9 and correct transcript of the proceedings to the best of my  
10 ability.

11 I FURTHER CERTIFY that I am neither employed by nor  
12 related to any of the parties or attorneys in this case and  
13 that I have no interest whatsoever in the final disposition  
14 of this in any court.

15  
16 

17 MARCIA J. SCHICK

18 Certified Shorthand Reporter  
19  
20  
21  
22  
23  
24  
25