



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of the Director
Bureau of Competition

NOV 9 2001

James C. Egan, Jr., Esquire
Clifford Chance Rogers & Wells
2001 K Street NW
Washington DC 20006 1001

Re: Sun Microsystems, Inc.
File No. 011- 0006

Dear Mr. Egan:

The Federal Trade Commission's Bureau of Competition has been conducting a preliminary nonpublic investigation to determine whether Sun Microsystems, Inc. has engaged in unfair methods of competition in or affecting commerce in violation Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, as amended, by subverting or otherwise undermining the standard-setting process of the JEDEC Solid State Technology Association ("JEDEC"). In part, the investigation relates to whether Sun had a duty to disclose certain patents and patent applications during the JEDEC standard-setting process relating to memory modules and failed to do so.

On October 1, 2001, you submitted to Bureau staff copies of disclaimers that your client Sun has filed with the United States Patent & Trademark Office. Under these disclaimers, Sun has disavowed its rights to the patents relating to the standards at issue in the Bureau's investigation. Further, in your accompanying letter you state that Sun has abandoned the sole pending United States patent application that claimed priority to the disclaimed patents. As a result, we understand that Sun henceforth will be unable to enforce any patents, or prosecute any patent applications, that were the subject of the instant investigation.

The actions taken by Sun while the investigation was at an early stage have led the Commission to conclude that it is no longer in the public interest to continue this investigation, notwithstanding the fact that the Commission had serious questions about the propriety of the underlying conduct involved. Moreover, the Commission emphasizes that continued investigation and prosecution may well be warranted in future cases in which potentially anti-competitive conduct is discontinued and corrective action taken during the pendency of a Commission investigation.

Pursuant to the authority delegated by the Commission, 49 Fed. Reg. 6171 (1984), the investigation has been closed. This action is not to be construed as a determination that a violation may not have occurred, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such

further action as the public interest may require.

Sincerely yours,

A handwritten signature in black ink, appearing to read "M. Sean Royall". The signature is fluid and cursive, with a large initial "M" and "S".

M. Sean Royall
Deputy Director