

DOCKETED

Docket Number:	14-AAER-02
Project Title:	Computer, Computer Monitors, and Electronic Displays
TN #:	204882
Document Title:	Application for Confidentiality
Description:	N/A
Filer:	Sabrina Savala
Organization:	Advanced Micro Devices, Inc. (AMD)
Submitter Role:	Public Agency
Submission Date:	6/3/2015 1:25:38 PM
Docketed Date:	6/3/2015



June 2, 2015

Mr. Robert Oglesby
Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Application for Confidential Designation
Advanced Micro Devices, Inc. ("AMD")
CEC Staff Report Final Draft, "Analysis of Computers, Computer Monitors and Signage
Displays", Docket Number 14-AAER-2 (the "Draft Regulation")

Dear Mr. Oglesby:

AMD designs and integrates cutting edge technology, primarily in the form of microprocessors, that powers millions of personal computers, game consoles and cloud servers throughout the State of California and around the world. AMD is a long standing corporate citizen of the State of California with its headquarters located in Sunnyvale. AMD requests that the information contained in the attached PowerPoint presentation, comprised of AMD proprietary technical data and designs, AMD confidential non-public future product roadmaps, AMD recommendations for discrete graphics adders, based on future product offerings & roadmaps and AMD recommendations for desktop categorization based on future product offerings & roadmaps (collectively the "Confidential Record") be designated as confidential and exempt from disclosure under the California Public Records Act pursuant to California Government Code § 6254(k) (trade secrets). AMD provides the Confidential Record in support of its comments to the Draft Regulation.





A. The Confidential Record is Confidential Under Gov. Code § 6254(k) as a Trade Secret

AMD requests that the Confidential Record be designated confidential pursuant to California Government Code § 6254(k), which exempts corporate proprietary information, including trade secrets, from disclosure under the California Public Records Act. Under controlling law expressed in *Uribe v. Howie*, 19 Cal. App. 3d 194, 206-207 (1971):

A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it.

To determine whether certain information is a trade secret, one must evaluate whether the matter sought to be protected is information (1) which is valuable because it is unknown to others, and (2) which the owner has attempted to keep secret. *Whyte v. Schlage Lock Co.*, 101 Cal. App. 4th 1443, 1454 (2002). The Confidential Record represents detailed descriptions of AMD's roadmap of future processors, including descriptions of proprietary processor designs, features and estimated performance metrics representing the cutting edge of AMD's microprocessor designs, all of which represent material, non-public information the public disclosure of which would be highly competitively injurious to AMD's position in the technology marketplace.

Under CEC regulations, when requesting a trade secret be deemed confidential, an application must provide: 1) the specific nature of the advantage; 2) how the advantage would be lost; 3) the value of the information to AMD; and 4) the ease or difficulty with which the information could be legitimately acquired or duplicated by others. *See* Title 20, California Code of Regulations, § 2505(a)(1)(D). Accordingly, AMD attests to the following:

- ***“The specific nature of the advantage”*** The development of complex central processing units (“CPUs”) and graphics processing units (“GPUs”) requires the investment of hundreds of millions of dollars in research and development and AMD's ability to compete in the markets for sale of those products requires the continued development of novel and differentiated designs. Accordingly, the specific designs, features and metrics of AMD's products represent its primary competitive advantages.
- ***“How the advantage would be lost”*** – The information contained in the Confidential Records represents highly confidential data and intellectual property that is shared only with employees and individuals subject to written non-disclosure agreements that have a need to know the information. Disclosure of that information to AMD's competitors could allow them to gain an advantage or make up a shortcoming in their own products, the result of which would be highly damaging to AMD's competitive position in the market.
- ***“The value of the information to AMD”*** – AMD's primary business is the creation of trade secrets and intellectual property for the design of cutting edge microprocessors. Accordingly, that information represents the core asset of the company. Looking at the patent portfolio alone, the value of such information is worth billions of dollars.





- ***“The ease or difficulty with which the information could be legitimately acquired or duplicated by others”*** – At present there are only two other companies in the world, Intel and Nvidia, that manufacture x86 CPUs and discrete GPUs for computers and workstations. Given the extraordinary complexity of the processors and cost of entry into the markets, it would be extremely difficult for another company to duplicate or acquire the information.

For the reasons provided above, the Confidential Record is a trade secret under California law and qualifies for the exemption in Gov. Code § 6254(k).

B. Questionnaire: Application For Confidential Designation

To further support AMD’s request, we provide responses to the CEC’s questionnaire regarding applications for confidential designation:

1(a). Title, date and description (including number of pages) of the record for which you request confidential designation.

See description above of the Confidential Record, PowerPoint presentation comprised of 25 slides.

1(b). Specify the part(s) of the record for which you request confidential designation.

AMD requests confidential designation for the entire Confidential Record.

2. State and justify the length of time the Commission should keep the record confidential.

AMD requests that the Confidential Record be kept confidential for a period of ten (10) years from the date of disclosure to protect the trade secrets and proprietary information described above.

3(a). State the provisions of the Public Records Act or other law that allows the Commission to keep the record confidential, and explain why the provision(s) apply to the record.





The Confidential Record is confidential and exempt from disclosure under the California Public Records Act pursuant to California Government Code § 6254(k) (trade secrets). If the information in the Confidential Record is released to the public, the value and benefit of the proprietary information and trade secrets could be impaired.

- 3(b). *Discuss the public interest in nondisclosure of the record. If the record contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please also state how it would be lost, the value of the information to AMD, and the cost or difficulty with which the information could be legitimately acquired or duplicated by others.*

See description above in Section 1 regarding trade secrets. For the reasons provided above, the Confidential Record is a trade secret under California law and qualifies for the exemption in Gov. Code § 6254(k).

4. *State whether the record may be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.*

AMD believes the CEC cannot incorporate a generalized summary of the information contained in the Confidential Record to properly describe the basis for its analysis without disclosing information specific enough to impair value of the trade secrets or proprietary information.

5. *State how the record is kept confidential by AMD and whether it has ever been disclosed to a person other than an employee of AMD. If it has, explain the circumstances under which disclosure occurred.*

AMD has not disclosed any of the subject confidential information to anyone other than its employees, attorneys, consultants, contractors others working as part of the project application, or others with a specific need for the information and all subject to non-disclosure agreements.

C. Summary of Basis For Confidentiality Request

According to the CEC's regulations, an application for confidential designation "shall be granted if AMD makes a reasonable claim that the Public Records Act or other provision of law authorizes the Commission to keep the record confidential." Title 14, California Code of Regulations, § 2505(a)(3)(A). AMD believes this letter establishes a reasonable claim for confidentiality based on the applicability of Gov. Code § 6254(k).





AMD requests that the entirety of the Confidential Record be kept confidential for a period of ten (10) years from date of disclosure to protect proprietary information and trade secrets contained therein. AMD requests that the Confidential Record not be disclosed even if aggregated with other information or redacted to conceal certain information. AMD has not disclosed any of the subject confidential information to anyone other than its employees, attorneys, consultants, others working as part of the project application before the CEC, or others with a specific need for the information and all subject to non-disclosure agreements.

I have been authorized to make this application and certification on behalf of AMD. With my signature to this letter, I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Shaun Moore", is written over the typed name and title.

Very truly yours,

Shaun Moore
Corporate Vice President
Law Department

