

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of

RAMBUS INC.,

a corporation.

Docket No. 9302

**DECLARATION OF STEVEN M. PERRY IN RESPONSE
TO MOTION BY DEPARTMENT OF JUSTICE TO LIMIT
DISCOVERY RELATING TO THE DRAM GRAND JURY**

I, Steven M. Perry, declare:

1. I am a member of the State Bar of California and a member of the law firm of Munger, Tolles & Olson LLP, co-counsel for respondent Rambus Inc. (“Rambus”) in this matter. I submit this declaration in support of Rambus Inc.’s Response to Motion by Department of Justice to Limit Discovery Relating to the DRAM Grand Jury. I have personal knowledge of the facts set forth in this declaration, which encloses the evidence referenced in Rambus’s opposition to the DOJ’s motion.

2. I have attached, as exhibit A, true copies of the pages from the Expert Report of R. Preston McAfee that are cited in Rambus’s Opposition. I understand that Mr. McAfee is an economist who was retained in this matter by Complaint counsel. The McAfee Report and the appendices thereto are over 400 pages long, so I have not included a copy of the entire report.

3. I have attached, as exhibit B, **[REDACTED]**.

4. I have attached, as exhibit C, **[REDACTED]**.

5. I have attached, as exhibit D, **[REDACTED]**.

6. I have attached, as exhibit E, a true copy of the first two pages of the minutes of a December 3, 1996 meeting of a DRAM manufacturer “consortium” called the “SyncLink consortium.” The minutes reflect that “[i]t now seems likely Intel will choose Rambus,” and they express a desire “to get the supplier executives together.” The minutes were produced by Hynix.

7. I have attached, as exhibit F, **[REDACTED]**.

8. I have attached, as exhibit G, a true copy of the first page of the minutes of the January 13, 1997 meeting of the SyncLink Consortium (now called the “SLDRAM Consortium”). The minutes were produced by Hynix and refer to comments made at the January 10, 1997 Tokyo meeting of DRAM supplier executives.

9. I have attached, as exhibit H, a true copy of the first page of the minutes of the February 13, 1997 SLDRAM Consortium meeting. The minutes were produced by Hynix and include the statement that “Intel won’t change course unless Rambus fails.”

10. I have attached, as exhibit I, **[REDACTED]**.

11. I have attached, as exhibit J, **[REDACTED]**.

12. I have attached, as exhibit K, a portion of a PowerPoint presentation produced by Mr. McComas. It appears to represent his presentation at the seminar referenced in his April 3, 1998 outline. I have enclosed those pages cited in the opposition brief.

13. I have attached, as exhibit L, **[REDACTED]**.

14. I have attached, as exhibit M, **[REDACTED]**.

15. I have attached, as exhibit N, **[REDACTED]**.

16. I have attached, as exhibit O, a true copy of certain pages from a certified copy of a transcript of the deposition of Farhad Tabrizi, a Hynix executive responsible for DRAM marketing. I took the deposition on November 20, 2002.

17. I have attached, as exhibit P, **[REDACTED]**.
18. I have attached, as exhibit Q, **[REDACTED]**.
19. I have attached, as exhibit R, **[REDACTED]**.
20. I have attached, as exhibit S, **[REDACTED]**.
21. I have attached, as exhibit T, **[REDACTED]**.

22. As the accompanying brief in opposition to the DOJ's Motion explains, the DOJ's earlier motion for a temporary stay of discovery relating to price-fixing has seriously disrupted an already difficult (if not impossible) discovery schedule. At least four depositions were continued as a direct result of the DOJ's motion and its grant. In addition, Infineon postponed a substantial (dozens of boxes) document production less than 24 hours before it was to begin. Elpida and other third parties have continued to resist the production of documents relating to DRAM pricing, but Rambus's ability to move to compel has been limited by the temporary stay. As a consequence, and even if the DOJ's pending motion is denied, a continuance of the discovery cut-off and hearing date is necessary in order to complete required discovery.

23. Exhibits B-N and P-T to this Declaration, including the information from such exhibits as cited herein and in the accompanying brief in opposition to the DOJ's Motion, are subject the Protective Order in this matter, a copy of which is attached hereto as exhibit U.¹

¹ The text of Public Record version of Paragraph 23 of this Declaration is identical to that contained in the Non-Public version. Further review has, however, indicated that the certain of the exhibits asserted in Paragraph 23 as having been designated as confidential information by a third party pursuant to the Protective Order in this case (a copy of which is attached as exhibit U to this Declaration), were not in fact so designated. Specifically, although it was believed at the time of filing the Non-Public version of this declaration that exhibits E, G, H and K had been designated confidential information by a third party pursuant to the Protective Order in this case, further review proved that not to be the case. Thus, exhibits B, C, D, F, I, J, L-N and P-T, and the information contained therein that is cited in this brief are the only exhibits that were actually designated as confidential information by a third party pursuant to the Protective Order in this case, and only those exhibits are being withheld from this Public Record version.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 6, 2003 at Los Angeles, California.

Steven M. Perry

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CERTIFICATE OF SERVICE

I, Jacqueline M. Haberer, hereby certify that on January 7, 2003, I caused a true and correct copy of this public version of the *Declaration of Steven M. Perry in Response to Motion by Department of Justice to Limit Discovery Relating to the DRAM Grand Jury* to be served by facsimile at 415-436-6687 and overnight delivery to Niall E. Lynch at the United States Department of Justice, Antitrust Division, 450 Golden Gate Avenue, Room 10-0101, San Francisco, California 94102-3478, and on the following persons by hand delivery:

Hon. James P. Timony
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Federal Trade Commission
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Deputy Director, Bureau of Competition
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Jacqueline M. Haberer