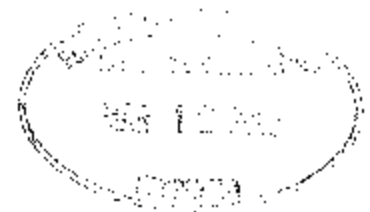


UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION



In the Matter of  
RAMBUS INC.,  
a corporation.

Docket No. 9302

**ORDER DENYING COMPLAINT COUNSEL'S  
MOTION TO COMPEL AN ADDITIONAL DAY  
OF DEPOSITION TESTIMONY OF RICHARD CRISP**

Pursuant to Commission Rule 3.22(a), on February 21, 2003, Complaint Counsel filed its motion to compel an additional day of deposition testimony of Richard Crisp. By Order dated March 4, 2003, Respondents' Unopposed Motion for Extension of Time was granted. Respondent Rambus, Inc. ("Rambus") filed its opposition on March 7, 2003. For the reasons set forth below, Complaint Counsel's motion is DENIED.

Complaint Counsel's motion asserts that Richard Crisp was Respondent's primary representative of the Joint Electronics Device Engineering Council ("JEDEC") committee from early 1992 until Respondent withdrew from JEDEC in June 1996. As such, Complaint Counsel asserts that Mr. Crisp was a key figure in Respondent's efforts to draft claims to be added to pending patent applications covering the work Mr. Crisp observed at JEDEC.

Mr. Crisp was previously deposed by Complaint Counsel on Friday, February 14, 2003, for approximately seven hours. At the end of the deposition, Complaint Counsel indicated that it had not completed its examination of Mr. Crisp. The evidence indicates that Mr. Crisp subsequently offered to make himself available for up to five hours of additional testimony, provided that the deposition take place, for his convenience, on a Saturday.

Mr. Crisp has demonstrated that testifying during the work week would place a substantial burden on him. Mr. Crisp was willing to accommodate Complaint Counsel's request for additional examination by making himself available on a weekend. Complaint Counsel, however, refused this compromise. Mr. Crisp is no longer an employee of or consultant to Rambus and therefore is not under the control of Rambus. Rather, Mr. Crisp works for another, unrelated entity and travels extensively in his current position.

The Court notes that non-expert discovery closed in this matter on February 24, 2003. It would be inappropriate, at this late date, to reopen discovery when Mr. Crisp voluntarily offered Complaint Counsel the opportunity to obtain most, if not all, of the information that Complaint Counsel now seeks. While a deposition on a Saturday no doubt would have been inconvenient for Complaint Counsel, since Complaint Counsel chose to bring this action and Mr. Crisp, a non-party, did not, the greater burden of any inconvenience should be borne by Complaint Counsel, not Mr. Crisp.

Further, Complaint Counsel has not presented compelling reasons for ordering an additional day of deposition testimony outside of the close of discovery. First, it does not appear that Rambus produced additional documents since Mr. Crisp's February 14 deposition. Thus, Complaint Counsel had all documents upon which its examination was based prior to Mr.

Crisp's deposition. Second, Complaint Counsel has access to over 60 hours of testimony provided by Mr. Crisp in depositions and at trial in private litigation. While these private matters did not pose the identical issues addressed in the instant action, they did raise numerous similar issues. At the least, Complaint Counsel could have used these materials to hone their deposition examination of Mr. Crisp prior to his February 14 deposition. If Complaint Counsel believed, after the review of these materials, that Mr. Crisp's deposition could not be completed in a single day, Complaint Counsel either should have sought intervention before the close of discovery or accepted the certainty of an opportunity for additional examination presented by Mr. Crisp's Saturday offer.

For the above stated reasons, Complaint Counsel's motion to compel is DENIED.

ORDERED:

  
Stephen J. McGuire  
Chief Administrative Law Judge

Date: March 12, 2003