

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

In the Matter of

RAMBUS INCORPORATED,

a corporation,

Docket No. 9302

[PROPOSED]
REVISED SCHEDULING ORDER

It is HEREBY ORDERED that this matter shall proceed in accordance with the following

Scheduling Order:

EVENT	DATE
Answer filed	July 29, 2002
Exchange initial disclosures	August 6, 2002
Last day for issuing document requests to the parties	August 30, 2002
Last day for issuing party interrogatories (except for those related to requests for admission)	September 23, 2002
Complaint Counsel provides preliminary witness list (excluding experts)	September 30, 2002
Respondent's Counsel provides preliminary witness list (excluding experts)	October 15, 2002
Complaint Counsel identifies experts and provides vita, lists of publications, and lists of matters in which any expert has testified under oath	November 12, 2002

Complaint Counsel provides preliminary rebuttal witness list (excluding experts)	November 18, 2002
Respondent's Counsel identifies expert(s) and provides vita, lists of publications, and lists of matters in which any expert has testified under oath	November 26, 2002
Respondent's Counsel provides preliminary rebuttal witness list (excluding experts)	December 2, 2002
Last day to file motions to compel regarding party discovery (except those related to requests for admission)	December 4, 2002
Complaint Counsel provides Expert Reports and produces or identifies documents and other written materials relied upon or considered by the experts	December 10, 2002
Last day to file requests for admission	December 23, 2002
Respondent's Counsel provides Expert Reports and produces or identifies documents and other written materials relied upon or considered by the experts	January 7, 2003
Complaint Counsel provides Rebuttal Expert Reports and produces or identifies documents or other written materials relied upon or considered by the experts	January 27, 2003
Parties that intend to offer into evidence at the hearing confidential materials of an opposing party or non-party must provide notice to the producing party, pursuant to 16 C.F.R. 3.45(b)	January 29, 2003
Last day for filing motions for summary decision	January 31, 2003
Close of discovery other than experts	February 3, 2003
Last day to file motions to compel regarding requests for admission	February 7, 2003
Exchange proposed stipulations of law and fact, stipulations of authenticity	February 7, 2003
Last day to file responses to motions to compel regarding requests for admission	February 18, 2003
Close of expert discovery	February 18, 2003
Last day to file motions for <i>in camera</i> treatment for proposed trial exhibits	February 19, 2003
Last day to file motions <i>in limine</i> and proposed stipulations	February 19, 2003

Exchange of final exhibit and witness lists	February 19, 2003
Last day to file responses to motions for summary decision	February 21, 2003
Exchange responses to proposed stipulations of law and fact, stipulations of authenticity	February 28, 2003
Meet and confer to resolve issues regarding proposed stipulations of law and fact, stipulations of authenticity	March 5, 2003
Last day to file responses to motions <i>in limine</i>	March 7, 2003
File and serve pretrial briefs	March 11, 2003
File final stipulations of law and fact, and final stipulations of authenticity (additional stipulations may be filed as agreed between the parties or as offered by the Administrative Law Judge)	March 12, 2003
Final prehearing conference	March 14, 2003
Hearing begins	March 19, 2003

ADDITIONAL PROVISIONS

1. Compliance with the scheduled end of discovery requires that the parties serve subpoenas and discovery requests sufficiently in advance of the date for close of discovery that all responses and objections will be due on or before that date, unless otherwise noted. Unless a subpoena or discovery request specifically identifies each document it seeks (*e.g.*, Widget Corporation's 1997 Annual Report), the return/response date shall be reasonable and at least ten (10) days after the date on which the subpoena or discovery request is issued or is served. Additional discovery shall be permitted only for good cause upon application to and approval by the Administrative Law Judge or by agreement of the parties, including any third party discovery in the event that the opposing party fails to disclose the identity of a third party that may have information that may be relevant to this proceeding in a timely manner in response to a discovery request.

2. The preliminary and final witness lists shall represent counsel's good faith designation of all potential witnesses. Additional witnesses may be added after the submission of the final witness lists only under the following circumstances:

- a. by agreement of counsel with notice to the Administrative Law Judge;
- b. by order of the Administrative Law Judge upon a showing of good cause; or

- c. if needed, to authenticate or provide evidentiary foundation for documents in dispute, with notice to the opposing party and the Administrative Law Judge.

A party seeking to add witnesses after submission of the final witness lists shall promptly notify the other parties of its intention to do so, to facilitate completion of discovery within the dates of the scheduling order. Opposing counsel shall have a reasonable amount of time to subpoena documents for and depose any witness added to the witness list pursuant to this paragraph, even if the discovery takes place during the hearing. Such discovery shall not be subject to the scheduling or notice provisions of paragraph 1 or the minimum return/ response period for subpoena/discovery requests of paragraph 2 unless otherwise ordered by the Administrative Law Judge.

3. The preliminary and final exhibits list shall represent counsel's good faith designations of all trial exhibits other than demonstrative, illustrative, or summary exhibits. Additional exhibits may be added after submission of the final lists only under the following circumstances:

- a. by agreement of counsel with notice to the Administrative Law Judge;
- b. by order of the Administrative Law Judge upon a showing of good cause; or
- c. where necessary for purposes of impeachment.

4. At the time an expert is first listed as a witness by a party, the party will provide to the other party:

- a. materials fully describing or identifying the background and qualifications of the expert, and all prior cases in which the expert has testified or been deposed; and
- b. transcripts of such testimony in the possession, custody or control of the listing party or the expert, subject to any confidentiality orders entered in prior litigation.

5. The parties shall provide for each testifying expert witness an Expert Report containing the information required by Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure, including all documents and other written materials relied upon or considered by the expert in formulating an opinion in this case. Each side may list (rather than produce) materials relied upon or considered by expert witnesses, to the extent those materials have previously been produced. Unless otherwise agreed by the parties, drafts of expert reports and notes taken by expert witnesses need not be produced. In addition, written communications exchanged between counsel and expert witnesses need not be produced, provided they are not independently subject to discovery.

6. It shall be the responsibility of a party designating an expert witness to ensure that the expert witness is reasonably available for deposition during the six-week period immediately preceding the last date for expert depositions. Unless otherwise agreed by the parties or ordered by the Administrative Law Judge, each expert witness shall be deposed only once.

7. All papers shall serve the Administrative Law Judge with two courtesy copies of all papers filed with the Office of the Secretary by 5:00 p.m. EST on the designated date. All papers shall be served on Counsel by hand or facsimile by 6:00 p.m. EST on the designated date. Service shall be to Complaint Counsel, M. Sean Royall and Malcolm L. Catt, Federal Trade Commission, 600 Pennsylvania Ave., NW, Room H-372, Washington, DC 20580, and to Respondent's counsel, Steven M. Perry, Munger, Tolles & Olson LLP, 355 South Grand Avenue, 35th Floor, Los Angeles, CA 90071-1560 and A. Douglas Melamed, Wilmer, Cutler & Pickering, 2445 M Street, NW, Washington, DC 20037-1402. All deliveries by facsimile shall be followed promptly by delivery of an original by hand or overnight courier. It shall be the obligation of the serving party to ensure that service by facsimile has been effected.

8. All pleadings that cite to unpublished opinions shall include such cases as exhibits.

9. All pleadings, motions, supporting briefs, objections to discovery, responses to discovery, exhibit lists, witness lists, privilege lists, master lists of documents provided, expert reports, and similar material shall be provided between counsel in hard copy (paper) and as e-mail attachments in Microsoft Word, WordPerfect, Microsoft Excel, or Lotus 1-2-3 format if the party or its counsel uses one of these programs to generate the documents described in this paragraph.

10. The procedure for marking of exhibits referred to in the adjudicative proceeding is as follows: Complaint Counsel's exhibits shall bear the designation CX and Respondent's exhibits shall bear the designation RX or some other appropriate designation. (For example, the first exhibit shall be marked CX-1 for Complaint Counsel.) When an exhibit consists of more than one piece of paper and each page of the exhibit bears a consecutive document control number or some other consecutive page number, counsel shall mark on the first page of the exhibit with the appropriate designation (e.g. CX-1). When an exhibit consists of more than one piece of paper and each page of the exhibit does not bear a consecutive document control number or some other consecutive page number, counsel shall mark each page and each back side of each page containing relevant matter with CX-1-A through CX-1-Z; items thereafter are numbered CX-1-Z-2, Z-3, Z-4, etc., as necessary.

11. Counsel is required to give the originals of exhibits to the court reporter, which the court reporter will keep.

12. The final prehearing conference and the evidentiary hearing shall be held in Room 532, Federal Trade Commission Building, 600 Pennsylvania Ave., N.W., Washington, D.C.

ORDERED:

James P. Timony
Administrative Law Judge

Dated: