

EXHIBIT A



Service of Process Transmittal Form
Chicago, Illinois

10/04/2002

Via Federal Express (2nd Day)

TO: Alan Olschwang ESQ
MITSUBISHI ELECTRIC AMERICA INC.
5665 PLAZA DR.
CYPRESS, CA 90630

RE: PROCESS SERVED IN ILLINOIS

FOR MITSUBISHI ELECTRIC & ELECTRONICS USA, INC. Domestic State: De

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

- 1. TITLE OF ACTION:** In The Matter Of Rambus, Incorporated, et al. **TO: MITSUBISHI ELECTRIC & ELECTRONICS USA, INC.**
- 2. DOCUMENT(S) SERVED:** Subpoena Duces Tecum & Exhibits
- 3. COURT:** United States Of America Federal Trade Commission
Case Number 9302
- 4. NATURE OF ACTION:** You are commanded to produce, all documents describing or discussing any disclosures made to you by Rambus pursuant to the Non-Disclosure Agreement entered into in 1990 between you and Rambus, etc.
- 5. ON WHOM PROCESS WAS SERVED:** CT Corporation System, Chicago, Illinois
- 6. DATE AND HOUR OF SERVICE:** By Process server on 10/03/2002 at 16:00
- 7. APPEARANCE OR ANSWER DUE:** October 15, 2002 @ 9a.m.
- 8. ATTORNEY(S):** Munger, Tolles & Olson, LLP 213-683-9100
355 South Grand Avenue
35th Floor
Los Angeles, CA 90017
- 9. REMARKS:** i-Note sent 10/04/2002 to ALAN.OLSCHWANG@MEUS.MEA.COM

SIGNED CT Corporation System
PER Linda Werner /AM
ADDRESS 208 South LaSalle Street
Chicago, IL 60604
SOP WS 0004827894

Information contained on this transmittal form is recorded for CT Corporation System's record keeping purposes only and to permit quick reference for the recipient. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information that can be obtained from the documents themselves. The recipient is responsible for interpreting the documents and for taking the appropriate action.



SUBPOENA DUCES TECUM

Issued Pursuant to Rule 3.34(b), 16 C.F.R. § 3.34(b)(1997)

1. TO

Mitsubishi Electric & Electronics USA,
Inc.
208 South La Salle Street
Chicago, Illinois 60604

2. FROM

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things - or to permit inspection of premises - at the date and time specified in Item 5, at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

3. PLACE OF PRODUCTION OR INSPECTION

Munger, Tolles & Olson, LLP
355 South Grand Avenue
35th Floor
Los Angeles, California 90017
(213) 683-9100

4. MATERIAL WILL BE PRODUCED TO

Sean P. Gates

5. DATE AND TIME OF PRODUCTION OR INSPECTION

October 15, 2002
9:00 a.m.

6. SUBJECT OF PROCEEDING

In the matter of Rambus, Incorporated, Docket No. 9302

7. MATERIAL TO BE PRODUCED

All documents described in Attachment "A" hereto.

8. ADMINISTRATIVE LAW JUDGE

Honorable James P. Timony

Federal Trade Commission
Washington, D.C. 20580

9. COUNSEL REQUESTING SUBPOENA

Steven M. Perry
Sean P. Gates
Peter A. Detre

DATE ISSUED

AUG 20 2002

SECRETARY'S SIGNATURE

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 9, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to counsel listed in Item 9 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from counsel listed in Item 9.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

ATTACHMENT A
DEFINITIONS AND INSTRUCTIONS

The following definitions and instructions apply to this *Subpoena Duces Tecum*:

1. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of that term in the FTC's Rules of Practice, 16 C.F.R. § 3.34(b). A draft or a non-identical copy is a separate document within the meaning of this term.
2. The term "relating to" is defined as in whole or in part, addressing, analyzing, concerning, constituting, containing, commenting on, discussing, dealing with, describing, identifying, referring to, reflecting, reporting on, stating, or otherwise pertaining to.
3. The term "communication" means any and all forms of communication between two or more persons including, but not limited to, in-person meetings and conversations, telephone calls, voicemail or answering machine messages, letters, notes, memoranda, e-mail, and facsimile transmissions as applicable.
4. As used herein, "person" will refer, in the plural as well as in the singular, to any natural person or business, legal or governmental entity or association.
5. The term "Mitsubishi," "company," "you," or "your" means the person to whom this subpoena is addressed, and its subsidiaries and parent companies and each of their officers, employees, directors, predecessors, successors, and assigns.
6. The term "relevant pricing period" is defined as the period from January 1, 1998 through June 30, 2002. In producing documents in response to requests where this term is not employed, produce all responsive documents generated or received between January 1, 1991 and the present.
7. As used herein, "and" and "or" will be construed both conjunctively and disjunctively, and each will include the other whenever such a dual construction would serve to bring within the scope of a request documents or things that would not otherwise be within its scope.

8. In producing documents responsive to this subpoena, you must produce them in the manner in which they are kept in the ordinary course of business or organize or label them to correspond with the categories described below.

9. As used herein, the term "RAND" is an acronym for the phrase "reasonable and non-discriminatory."

10. For your convenience, a copy of the Confidentiality Order entered by the Administrative Law Judge in this proceeding is enclosed herewith.

11. Sections 3.38(A)(a)-(b) of the FTC Rules of Practice provide as follows:

"(a) Any person withholding material responsive to a subpoena issued pursuant to § 3.34, written interrogatories requested pursuant to § 3.35, a request for production or access pursuant to § 3.37, or any other request for the production of materials under this part, shall assert a claim of privilege or any similar claim not later than the date set for production of the material. Such person shall, if so directed in the subpoena or other request for production, submit, together with such claim, a schedule of the items withheld which states individually as to each such item the type, title, specific subject matter, and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific grounds for claiming that the item is privileged.

(b) A person withholding material for reasons described in § 3.38A(a) shall comply with the requirements of that subsection in lieu of filing a motion to limit or quash compulsory process."

You are directed to provide the log described in section 3.38A(a).

PLEASE TAKE NOTE OF THE REQUIREMENT IN THE RULES OF PRACTICE THAT THIS LOG MUST BE PROVIDED NO LATER THAN THE DATE SET FOR PRODUCTION IN THIS SUBPOENA.

DOCUMENTS AND THINGS TO BE PRODUCED

1. All documents describing or discussing any disclosures made to you by Rambus pursuant to the Non-Disclosure Agreement entered into in 1990 between you and Rambus (hereinafter "the Rambus NDA").

2. All documents discussing, analyzing or referring to the issue of whether any of the technology disclosed to you by Rambus under the Rambus NDA was previously known to you.

3. All documents discussing, analyzing or referring to the issue of whether any of the technology disclosed to you by Rambus under the Rambus NDA was anticipated by prior art.

4. All documents discussing, analyzing or referring to the issue of whether any of the technology disclosed to you by Rambus under the Rambus NDA was novel, original, or an advance over prior art.

5. Documents sufficient to identify the name(s) of any inside counsel and outside counsel who in 1990, 1991 or 1992 reviewed or considered:

- a. any of the disclosures made by Rambus to you under the Rambus NDA;
- b. any of the issues described in request nos. 2-4, above.

6. All documents provided to inside counsel or outside counsel in 1990, 1991, or 1992 in connection with any review by counsel of the information, materials and issues described in request nos. 2-5, above.

7. All documents constituting, relating or referring to any opinion of counsel sought or obtained by you prior to December 1995 regarding any intellectual property rights owned or claimed by Rambus.

8. All documents relating or referring to the use in any JEDEC-compliant memory device manufactured, sold or used by you of any of the technology disclosed to you by Rambus under the Rambus NDA.

9. All documents that Mitsubishi has provided to or received from the Federal Trade Commission ("FTC"), or any other person, in connection with the FTC's investigation of Rambus or the FTC's action against Rambus.

10. All documents describing, analyzing, or referring to the scope or validity of any of Rambus' claimed intellectual property rights.

11. All documents describing, analyzing, or referring to the possibility of designing around Rambus' claimed intellectual property.

12. For each of the following technologies, features, or possible technologies or features of DRAM,

- (1) programmable CAS latency,
- (2) programmable burst length,
- (3) on-chip PLL or on-chip DLL,
- (4) dual-edge clocking,
- (5) multi-bank design,
- (6) externally supplied reference voltage,
- (7) low-voltage swing,
- (8) source-synchronous clocking, and
- (9) auto pre-charge,

produce:

- a. all documents describing, analyzing, or referring to that technology as a feature or possible feature of DRAMS;
- b. all documents describing, analyzing, or referring to the possible inclusion of that technology or feature in any JEDEC standard;
- c. all documents relating to the importance of that technology or feature to any DRAM design or architecture, including SDRAM, DDR SDRAM, DDR 2 SDRAM, and RDRAM;
- d. all documents relating to any patents or patent applications covering or potentially covering that technology or feature;
- e. all documents listing, describing, or evaluating alternative technologies or features that might be used to perform the same functions as that technology, either in a synchronous or asynchronous system;

f. all documents relating to any patents or patent applications covering any alternative technologies or features that might be used to perform the same functions as that technology;

g. all documents describing how that feature operates or is used in JEDEC-compliant SDRAM or JEDEC-compliant DDR SDRAM products;

h. all documents listing, describing, or evaluating how that feature is described in any patent description written or issued by or for Mitsubishi and with a priority date prior to January 1, 1999;

i. all documents describing or referring to any patents or patent applications containing claims that relate to that technology or feature, any patent descriptions that would support such claims, or any proposed or potential patents or patent applications that might contain claims that relate to that technology or feature;

j. all documents describing, reflecting, or referring to any meetings, conferences, or communications relating to any patents, or patent applications containing claims that relate to that technology or feature, any patent descriptions that would support such claims, or any proposed or potential patents or patent applications that might contain claims that relate to that technology or feature; and

k. all documents describing, analyzing, or referring to any assertion or possible assertion by Rambus of any intellectual property rights with respect to that technology or feature.

13. All documents that refer or relate to the October 1991 meeting in Portland, Oregon that is referenced on page 4 of the December 1991 JEDEC meeting minutes, attached as exhibit "A" hereto.

14. All communications between any employee or officer of Mitsubishi Electric & Electronics USA, Inc. (or any of its predecessors) and any employee or officer of Mitsubishi Electric Corp. (or any of its predecessors) regarding any of the following subjects:

a. JEDEC patent policies;

- b. DRAM chip pricing;
- c. the FTC's investigation of, or action against, Rambus; or
- d. this subpoena.

15. All documents describing, reflecting, or referring to policies or instructions regarding the conduct of company employees at any JEDEC meeting.

16. All documents (including but not limited to trip reports, notes, e-mails and memoranda) prepared by any of your JEDEC representatives or any other of your employees who attended JEDEC meetings (including but not limited to Larry Alchesky, Dennis Blankenship, David Chan, Daniel Chen, Sam Chen, Tun Cheng, T.C. Chou, Olivet Chou, Steve Forman, R.C. Foss, Charles Hart, Hisashi Iwamoto, David King, Takayuki Miyamoto, Toshihiro Nagai, Yoshikazu Morooka, Kouichi Nagase, Mian Quddus, Bill Randolph, Wataro Sakamoto, Kazu Shimonton, Taugio Tabanu, Mohammad Taghavi, Makoto Tamiguihi, and Michihiro Yamada) describing or referring to any meeting of any JEDEC committee or subcommittee.

17. All documents describing, reflecting, or referring to policies regarding the disclosure of pending patent applications to persons not affiliated with or employed by Mitsubishi.

18. All documents describing, reflecting, or referring to policies regarding the disclosure to persons not affiliated with or employed by Mitsubishi of plans, strategies or intentions with respect to the future filings of patent applications.

19. All documents describing, reflecting, or referring to policies regarding the disclosure to persons not affiliated with or employed by Mitsubishi of plans, strategies or intentions with respect to the future amendment of patent applications.

20. All documents describing, reflecting, or referring to patents or to patent applications that any employee of Mitsubishi considered disclosing to JEDEC, whether or not disclosure actually occurred.

21. Documents sufficient to identify all patents and patent applications that related to or were involved in the work of JEDEC.

22. Documents sufficient to identify all patents and patent applications that any of your JEDEC representatives believed related to or were involved in the work of JEDEC.

23. Documents sufficient to identify: (a) the criteria used to determine the scope of your search for patents or patent applications in connection with the JEDEC disclosure policy; (b) all actual search efforts and/or results; and (c) the personnel involved in any such search process.

24. All documents describing, reflecting, or referring to any obligation under JEDEC rules, requirements or bylaws regarding the disclosure of patents.

25. All documents describing, reflecting, or referring to any obligation under JEDEC rules, requirements or bylaws regarding the disclosure of patent applications.

26. All documents describing, reflecting, or referring to the terms on which JEDEC members were or are required to license technology, including documents relating to RAND requirements or to the interpretation of the terms "reasonable" or "non-discriminatory."

27. Documents sufficient to identify all instances in which you agreed to license technology on RAND terms, where the technology was related to or involved in the work of JEDEC, including documents sufficient to show the licensing terms.

28. Documents sufficient to identify all instances in which you or other patent holders licensed technology on terms other than RAND, where the technology was related to or involved in the work of JEDEC, including documents sufficient to show the licensing terms.

29. All documents describing, reflecting, or referring to terms under which you have licensed proprietary technology in advance of the issuance of a patent.

30. All documents describing, reflecting, or referring to disputes as to whether actual or proposed licensing terms are (or were) RAND.

31. All documents relating to cross-licensing or pooling of any patents that were involved in or related to the work of JEDEC.

32. All documents describing, reflecting, or referring to any policies relating to any sanctions (whether imposed by the standard-setting organization or other entities) for failure to comply with a standard-setting organization's disclosure policy.

33. All documents describing, reflecting, or referring to your decision whether to participate in JEDEC or other standard-setting organizations, and the factors involved in that decision.

34. All documents comparing any actual or proposed DRAM product or technology to any other actual or proposed product or technology.

35. All documents comparing the cost of manufacture or use of any actual or proposed DRAM product or technology to the cost of manufacture or use of any product or technology developed, designed, or produced using technology developed by Rambus.

36. All documents describing, reflecting, or referring to the choice of whether to manufacture or use any actual or proposed DRAM product or technology.

37. All documents describing, reflecting, referring to, or contemplating switching, or the costs of switching, from the manufacture or use of any actual or proposed DRAM product or technology to the manufacture or use of any other product or technology.

38. All documents describing, reflecting, or referring to the backwards compatibility, or lack thereof, of any actual or proposed DRAM products or technologies.

39. All documents describing, reflecting, or referring to the market importance, or lack thereof, of JEDEC DRAM standards.

40. All documents comparing the cost of manufacture or use of any actual or proposed DRAM product or technology to the cost of manufacture or use of any other product or technology considered as a possible alternative.

41. All documents describing, reflecting, or referring to the role of Intel in the memory market, including, but not limited to, the effects of Intel decisions and practices on the manufacture, inclusion or use of any actual or proposed DRAM product or technology.

42. All documents describing, reflecting, or referring to standards or requirements for DRAM use or manufacture that were promulgated by or originated with Intel.

43. All documents relating to meetings you have participated in with any representative of Rambus.

44. All documents relating to the formation or purpose of Advanced DRAM Technologies ("ADT"), SLD RAM Inc., Ramlink, Synclink, or Advanced Memory International, Inc. ("AMI2").

45. All documents relating to communications (oral, written or electronic) with anyone affiliated with Infineon Technologies AG, Micron Technology, Inc., Hyundai Electronic Industries Co. Ltd., Hitachi Ltd. or any of their affiliates, subsidiaries or attorneys about any of the following subjects: (a) Rambus, Rambus technology, or RDRAM; (b) EIA/JEDEC, or (c) any litigation involving Rambus.

46. All documents relating to communications (oral, written or electronic) with anyone affiliated with any past or present member of JEDEC about any of the following subjects: (a) Rambus, Rambus technology, or RDRAM; (b) JEDEC; or (c) any litigation involving Rambus.

47. All documents relating to JEDEC patent policies.

48. All documents relating to Rambus' involvement in JEDEC from December 1991 to June 1996.

49. All documents relating to any proposals you made to JEDEC, or to any other entity, organization or association involved in setting or issuing standards (including, but not limited to, EIA, IEEE, Sync-Link, SLD RAM, Inc. or the SLD RAM Consortium) between 1990 and 1994 relating to synchronous DRAM or any feature thereof.

50. All documents relating to JEDEC meetings, including but not limited to trip reports, presentations, messages, or memoranda generated by or received from JEDEC representatives, whether formal, informal, or otherwise, whether distributed or undistributed.

51. All documents relating or referring to the setting of DRAM chip prices at any level (e.g., end-user, distributor) during the relevant pricing period, including, but not limited to, discussions of price changes, pricing goals or strategies, and competitor responses or reactions to price changes.

52. All documents sufficient to show the following information for each sale of DRAM chips made by the company during the relevant pricing period:

- a. the date of each sale;
- b. the date of delivery;
- c. the volume;
- d. the purchaser;
- e. the price per chip; and
- f. the terms of the sale agreement.

53. Documents sufficient to show the quantity of DRAM chips the company manufactured during the relevant pricing period.

54. All documents referring to discussions during the relevant pricing period regarding your chip manufacturing goals or strategies or regarding any competitor's chip manufacturing goals or strategies.

55. Documents sufficient to show, during the relevant pricing period:

- a. the company's daily capacity for manufacturing DRAM chips;
- b. the company's daily inventory of DRAM chips; and
- c. the daily quantity of DRAM chips sold.

56. All documents that support or refer to the proposition that royalties paid by the company to Rambus during the relevant pricing period had an impact on the sale price of the company's DRAM chips or modules (other than RDRAM chips or modules) during the relevant pricing period.

57. All documents constituting or referring to any estimate of the company's market share in the DRAM chip market during the relevant pricing period.

58. All documents constituting or referring to any communication between the company and any other manufacturer of DRAM chips concerning the price or manufacture of DRAM chips.

59. All documents relating or referring to the quantity of DRAM chips manufactured by any other DRAM manufacturer.

60. All documents relating or referring to the price of DRAM chips manufactured by any other DRAM manufacturer.

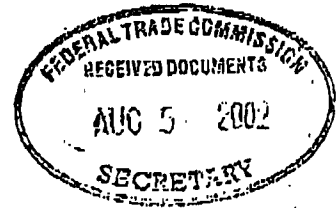
61. All documents that the company has provided to or received from the Department of Justice ("DOJ"), any grand jury, or any other person in connection with the DOJ's investigation of alleged price-fixing by certain DRAM chip manufacturers.

62. Documents sufficient to identify the individuals responsible for or involved in establishing the company's DRAM chip prices during the relevant pricing period.

63. All documents relating or referring to the fixed costs associated with the company's manufacture or sale of DRAM chips during the relevant pricing period.

AUG 12 2002

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION



In the Matter of

RAMBUS INCORPORATED,

a corporation.

Docket No. 9302

PROTECTIVE ORDER GOVERNING DISCOVERY MATERIAL

For the purpose of protecting the interests of the parties and third parties in the above-captioned matter against improper use and disclosure of confidential information submitted or produced in connection with this matter:

IT IS HEREBY ORDERED THAT this Protective Order Governing Confidential Material ("Protective Order") shall govern the handling of all Discovery Material, as hereafter defined.

DEFINITIONS

1. For the purposes of this Protective Order, the following definitions shall apply:
 - a. "Matter" means the matter captioned *In the Matter of Rambus Incorporated*, Docket Number 9302, pending before the Federal Trade Commission, and all subsequent appellate or other review proceedings related thereto.
 - b. "Commission" or "FTC" means the Federal Trade Commission, or any of its employees, agents, attorneys, and all other persons acting on its behalf, excluding

persons retained as consultants or experts for purposes of this Matter.

- c. "Rambus" means Rambus Incorporated, a public corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 4440 El Camino Real, Los Altos, California 94022.
- d. "Party" means either the FTC or Rambus.
- e. "Respondent" means Rambus.
- f. "Outside Counsel" means any law firm that is counsel of record for the Respondent in this Matter, its associated attorneys; persons regularly employed by such law firms (including legal assistants, clerical staff, and information management personnel); vendors retained by such law firm to provide copying, graphic, and other similar litigation support services; and temporary personnel retained by such law firm to perform legal or clerical duties, or to provide logistical litigation support with regard to this Matter, provided that any attorney associated with Outside Counsel shall not be a director, officer, or employee of Respondents. The term Outside Counsel does not include persons retained as consultants or experts for purposes of this Matter.
- g. "Producing Party" means a Party or Third Party that produced or intends to produce Restricted Confidential or Confidential Discovery Material to any of the Parties. With respect to Restricted Confidential or Confidential Discovery Material of a Third Party that either is in the possession, custody, or control of the FTC or has been produced by the FTC in this Matter, the Producing Party shall

mean the Third Party that originally provided the Restricted Confidential or Confidential Discovery Material to the FTC. Where necessary such Restricted Confidential or Confidential Discovery Materials shall be identified by the FTC by Third Party and the FTC shall provide the Respondent with contact information for each such Third Party. The Producing Party shall also mean the FTC for purposes of any document or material prepared by, or on behalf of, the FTC.

- h. "Third Party" means any natural person, partnership, corporation, association, or other legal entity not named as a party to this Matter, and their employees, directors, officers, attorneys, and agents.
- i. "Disclosing Party" means a party to this proceeding that is disclosing or contemplating disclosing Discovery Material pursuant to this Protective Order.
- j. "Expert/Consultant" means testifying or consulting experts who are retained to assist complaint counsel or Respondent's counsel in preparation for trial or to give testimony at trial.
- k. "DRAM industry" means developers, suppliers, and licensors of dynamic random access memory chips and technology, as well as designers and manufacturers of personal computer equipment and parts that incorporate such chips or technology.
- l. "Document" means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic matter, no matter how produced, recorded, stored or reproduced, and includes all drafts and all copies of every such writing, record or graphic that contain any commentary, notes, or marking whatsoever not appearing on the original. "Document" includes, but is

not limited to, every writing, letter, envelope, telegram, e-mail, meeting minute, memorandum, statement, affidavit, declaration, book, record, survey, map, study, handwritten note, working paper, chart, index, tabulation, graph, drawing, chart, photograph, tape, phono record, compact disc, video tape, data sheet, data processing card, printout, microfilm, index, computer readable media or other electronically stored data, appointment book, diary, diary entry, calendar, organizer, desk pad, telephone message slip, note of interview or communication, or any other data compilation from which information can be obtained.

m. "Discovery Material" includes deposition testimony, deposition exhibits, interrogatory responses, admissions, affidavits, declarations, documents produced pursuant to compulsory process or voluntarily in lieu thereof, and any other documents or information produced or given to one Party by another Party or by a Third Party in connection with discovery in this Matter. Information taken from Discovery Material that reveals its substance shall also be considered Discovery Material.

n. "Confidential Discovery Material" means all Discovery Material that is confidential or proprietary information produced in discovery which is not generally known and which the Producing Party would not normally reveal to third parties or would normally require third parties to maintain in confidence. These are materials which are referred to and protected by Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. § 46(f), Commission Rule of Practice § 4.10(a)(2), 16 C.F.R. § 4.10(a)(2), and Section 26(c)(7) of the Federal Rules of Civil Procedure, and

precedents thereunder. Confidential Discovery Material shall include non-public commercial information, the disclosure of which to Respondents or Third Parties would likely cause substantial commercial harm or personal embarrassment to the disclosing party. The following is a nonexhaustive list of examples of information that likely will qualify for treatment as Confidential Discovery Material: strategic plans (involving pricing, marketing, research and development, product roadmaps, corporate alliances, or mergers and acquisitions) that have not been fully implemented or revealed to the public; trade secrets; customer-specific evaluations or data (e.g., prices, volumes, or revenues); personnel files and evaluations; information subject to confidentiality or non-disclosure agreements; proprietary technical or engineering information; proprietary financial data or projections; and proprietary consumer, customer or market research or analyses applicable to current or future market conditions, the disclosure of which could reveal Confidential Discovery Material. Notwithstanding anything herein, material will not be considered confidential if it is within the public domain.

- o. "Restricted Confidential Discovery Material" is Confidential Discovery Material stamped "Restricted Confidential Discovery Material," which contains non-public, current information that is highly sensitive (marketing plans, pricing plans, financial information, trade secrets, or documents of a like nature) and the disclosure of which to the designated in-house counsel identified in paragraph 8 would likely cause substantial commercial harm or personal embarrassment to the Disclosing Party. It is anticipated that this particularly restrictive designation should be

utilized for only a small number of documents. Such a designation shall constitute a representation by counsel for the Disclosing Party that the material is properly subject to Restricted Confidential treatment under this Order.

TERMS AND CONDITIONS OF PROTECTIVE ORDER

2. Discovery Material, or information derived therefrom, shall be used solely by the Parties for purposes of this Matter, and shall not be used for any other purpose, including without limitation any business or commercial purpose. Notwithstanding the foregoing, nothing contained in this Protective Order shall prevent the Commission from using any material produced as part of the investigation of this matter during either the precomplaint phase or postcomplaint phase, including any Discovery Material, to respond to either: (i) a formal request or subpoena from either House of Congress or from any committee or subcommittee of the Congress, consistent with applicable law, including Sections 6(f) and 21 of the FTC Act; or (ii) a federal or state access request under Commission Rule 4.11(c), 16 C.F.R. § 4.11(c). Provided further, that nothing herein shall limit the Commission's ability to use the Discovery Material in any other investigation, or administrative or judicial proceeding, in which event such material shall be subject to the protections accorded by sections 21(b) & 21(d)(2) of the FTC Act.

3. The Parties, in conducting discovery from Third Parties, shall attach to such discovery requests a copy of this Protective Order and a cover letter that will apprise such Third Parties of their rights hereunder.

4. Discovery Material may be designated either as Confidential Discovery Material or as Restricted Confidential Discovery Material (i) by the Producing Party placing on or affixing to

the first page of a document containing such Restricted Confidential or Confidential Discovery Material, in such manner as will not interfere with the legibility thereof, the notation "CONFIDENTIAL - FTC Docket No. 9302" or "RESTRICTED CONFIDENTIAL, OUTSIDE COUNSEL ONLY - FTC Docket No. 9302" (or other similar notation containing a reference to this Matter); or (ii) by any Party instructing the court reporter, with notice to all parties, within five (5) business days of the publication of the transcript to designate as "Confidential" or "Restricted Confidential" each page of the deposition transcript containing such Confidential Discovery Material. Pursuant to this provision all deposition transcripts shall be treated as Restricted Confidential Discovery Material until the expiration of five (5) business days after the publication of the transcript. Such designations constitute a good-faith representation by counsel for the Party or Third Party making the designation that the document or transcript constitutes or contains "Restricted Confidential Discovery Material" or "Confidential Discovery Material."

5. A Producing Party will use reasonable care to avoid designating any Discovery Material as "Confidential" or "Restricted Confidential" which is not entitled to such designation or which is generally available to the public.

6. All documents obtained by compulsory process or voluntarily from any Party or Third Party, regardless of whether designated or marked confidential by the Party or Third Party, and transcripts of any investigational hearings, interviews, or depositions that were obtained before this Protective Order was adopted, shall be treated as Restricted Confidential Discovery Material for a period of twenty (20) days from the time notice of the intent to produce is given to the Producing Party. At the expiration of that time, this material shall be treated as Confidential Discovery Material unless otherwise designated by the Producing Party as either Restricted

Confidential Discovery Material or non-confidential.

7. Restricted Confidential Discovery Material shall not, directly or indirectly, be disclosed or otherwise provided to anyone other than:
- a. complaint counsel and the Commission, as permitted by the Commission's Rules of Practice;
 - b. Outside Counsel;
 - c. Experts/Consultants;
 - d. the Administrative Law Judge presiding over this matter and personnel assisting him;
 - e. court reporters involved in transcribing proceedings relevant to this matter;
 - f. judges and other court personnel of any court having jurisdiction over any appeal proceedings involving this Matter;
 - g. any author or recipient of the Restricted Confidential or Confidential Discovery Material (as indicated, for example, on the face of the document, record, or material); any individual who was in the direct chain of supervision of any author or recipient at the time the Restricted Confidential or Confidential Discovery Material was created or received; any employee or agent of the entity that created or received the document; or anyone representing an author or recipient of Restricted Confidential or Confidential Discovery Material in this Matter; and
 - h. such other person(s) authorized in writing by the Producing Party.
8. Confidential Discovery Material shall not, directly or indirectly, be disclosed or otherwise provided to anyone other than the persons listed in paragraph 7 and to two in-house

counsel for Respondent, provided that each signs a declaration in the form attached hereto as Exhibit "A," which is incorporated herein by reference. The designated in-house counsel for Respondent are John Danforth, Senior Vice President and General Counsel, and Robert Kramer, Counsel.

9. Restricted Confidential or Confidential Discovery Material shall not, directly or indirectly, be disclosed or otherwise provided to an Expert/Consultant unless such Expert/Consultant agrees in writing:

- a. to maintain the confidentiality of such Restricted Confidential or Confidential Discovery Material;
- b. to return such Restricted Confidential or Confidential Discovery Material to complaint counsel or Respondent's Outside Counsel, as appropriate, upon the conclusion of the Expert/Consultant's assignment or retention, or upon the conclusion of this Matter;
- c. not to disclose such Restricted Confidential or Confidential Discovery Material to anyone, except as permitted by the Protective Order; and
- d. to use such Restricted Confidential or Confidential Discovery Material and the information contained therein solely for the purpose of rendering consulting services to a Party to this Matter, including providing testimony in judicial or administrative proceedings arising out of this Matter.

10. This paragraph governs the procedures for the following specified disclosures:

- a. Disclosure to Experts/Consultants in the DRAM Industry

If any Party desires to disclose Restricted Confidential or Confidential Discovery Material

to any Expert/Consultant, who is not an FTC employee, and who, beyond his employment as an expert in this Matter, is an officer, director, or employee of any company the primary business of which is in the DRAM industry or who regularly consults with any company the primary business of which is in the DRAM industry regarding competitive decision making, or may otherwise have a financial or pecuniary interest, beyond that of a passive, minority investment, in any company the primary business of which is in the DRAM industry, the Disclosing Party shall notify the Producing Party of its desire to disclose such material. Such notice shall identify the specific Expert/Consultant to whom the Restricted Confidential or Confidential Discovery Material is to be disclosed. Such identification shall include, but not be limited to, the full name and professional address and/or affiliation of the proposed Expert/Consultant, and a current curriculum vitae of such Expert/Consultant identifying all other present and prior employers and/or firms in the DRAM industry for or on behalf of which the identified Expert/Consultant has been employed or done consulting work in the preceding four (4) years. To prevent the disclosure of Restricted Confidential or Confidential Discovery Material to such an Expert/Consultant, the Producing Party must, within five (5) business days of receiving notice, file a motion with the Administrative Law Judge that includes a written statement of the reasons for the objection to disclosure. If the Producing Party files such a motion, then the Disclosing Party shall not disclose the Restricted Confidential or Confidential Discovery Material to the identified Expert/Consultant, absent a written agreement with the Producing Party or order of the Administrative Law Judge permitting the disclosure. If the Producing Party does not file such a motion within five (5) business days of receiving notice, then the disclosing Party may disclose the Restricted Confidential or Confidential Discovery Material to the identified Expert/Consultant

without providing further notice.

b. Disclosure to New Persons

If any Party desires to disclose a Producing Party's Restricted Confidential or Confidential Discovery Material to any person other than those referred to in paragraphs 7 and 8 of this Protective Order ("New Person"), the Disclosing Party shall inform the Producing Party of its desire to disclose such material. Such notice shall identify those materials sought to be disclosed with specificity (*i.e.*, by document control numbers, deposition transcript page and line reference, or other means sufficient to easily locate such materials), and the specific New Person (by name and business affiliation) to whom such material is to be disclosed. The Producing Party may object to the disclosure of the Restricted Confidential or Confidential Discovery Material within five (5) business days of receiving notice of an intent to disclose the Restricted Confidential or Confidential Discovery Material to the New Person by providing the disclosing Party with a written statement of the reasons for the objection. If the Producing Party objects within five (5) business days, the Disclosing Party shall not disclose the Restricted Confidential or Confidential Discovery Material to the New Person, absent a written agreement with the Producing Party or order of the Administrative Law Judge permitting the disclosure. If the Producing Party does not object to the disclosure of the Restricted Confidential or Confidential Discovery Material to the New Person within five (5) business days, the Disclosing Party may disclose the Restricted Confidential or Confidential Discovery Material to the identified New Person.

11. Challenges to Confidentiality Designations and Resolution of Disputes

a. If any Party seeks to challenge a Producing Party's designation of material as Restricted Confidential or Confidential Discovery Material or any other restriction contained

within this Protective Order, the challenging Party shall notify the Producing Party and all other Parties of the challenge. Such notice shall identify with specificity (*i.e.*, by document control numbers, deposition transcript page and line reference, or other means sufficient to locate easily such materials) the designation being challenged. The Producing Party may preserve its designation within five (5) business days of receiving notice of the confidentiality challenge by providing the challenging Party and all other Parties to this action with a written statement of the reasons for the designation. If the Producing Party timely preserves its rights, the Parties shall continue to treat the challenged material as Restricted Confidential or Confidential Discovery Material, absent a written agreement with the Producing Party or order of the Administrative Law Judge providing otherwise.

b. If any confidentiality issue arises and the parties involved have failed to resolve the conflict via negotiations in good faith, a Party seeking to disclose Restricted Confidential or Confidential Discovery Material or challenging a confidentiality designation or any other restriction contained within this Protective Order may make written application to the Administrative Law Judge for relief. Such application shall be served on the Producing Party and the other Parties to this action, and shall be accompanied by a certification that the meet and confer obligations of this paragraph have been met, but that good faith negotiations have, nevertheless, failed to resolve outstanding issues. The Producing Party and any other Parties shall have five (5) business days to respond to any such application. While an application is pending, the Parties shall maintain the pre-application status of the Restricted Confidential or Confidential Discovery Material. Nothing in this Protective Order shall create a presumption or alter the burden of persuading the Administrative Law Judge of the propriety of a requested disclosure or

change in designation.

12. Restricted Confidential or Confidential Discovery Material shall not be disclosed to any person described as an Expert/Consultant under this Protective Order until such person has executed and transmitted to Respondent's counsel or complaint counsel, as the case may be, a declaration or declarations, as applicable, in the form attached hereto as Exhibit "A," which is incorporated herein by reference. Respondent's counsel and complaint counsel shall maintain a file of all such declarations for the duration of the litigation. Restricted Confidential or Confidential Discovery Material shall not be copied or reproduced for use in this Matter except to the extent such copying or reproduction is reasonably necessary to the conduct of this Matter, and all such copies or reproductions shall be subject to the terms of this Protective Order. If the duplication process by which copies or reproductions of Restricted Confidential or Confidential Discovery Material are made does not preserve the confidentiality designations that appear on the original documents, all such copies or reproductions shall be stamped "CONFIDENTIAL - FTC Docket No. 9302" or RESTRICTED CONFIDENTIAL, OUTSIDE COUNSEL ONLY - FTC Docket No. 9302," as appropriate.

13. The Parties shall not be obligated to challenge the propriety of any designation or treatment of information as Restricted Confidential or Confidential and the failure to do so promptly shall not preclude any subsequent objection to such designation or treatment, or any motion seeking permission to disclose such material to persons not referred to persons otherwise not entitled to access under the terms of this Protective Order. If Restricted Confidential or Confidential Discovery Material is produced without the legend attached, such document shall be treated as Restricted Confidential or Confidential from the time the Producing Party advises

complaint counsel and Respondent's counsel in writing that such material should be so designated and provides all the Parties with an appropriately labeled replacement. The Parties shall either return promptly or otherwise destroy the unmarked documents.

14. Counsel for any Producing Party shall have the right to exclude from oral depositions (during periods of examination or testimony relating to Restricted Confidential or Confidential Discovery Material) any person not authorized to receive Restricted Confidential or Confidential Discovery Material.

15. The production or disclosure of any Discovery Material made after entry of this Protective Order which a Producing Party claims was inadvertent and should not have been produced or disclosed because of a privilege will not be deemed a waiver of any privilege to which the Producing Party would have been entitled had the privileged Discovery Material not inadvertently been produced or disclosed. In the event of such claimed inadvertent production or disclosure, the following procedures shall be followed:

- a. The Producing Party may request the return of any such Discovery Material within twenty (20) days of discovering that it was inadvertently produced or disclosed (or inadvertently produced or disclosed without redacting the privileged content). A request for the return of any Discovery Material shall identify the specific Discovery Material and the basis for asserting that the specific Discovery Material (or portions thereof) is subject to the attorney-client privilege or the work product doctrine and the date of discovery that there had been an inadvertent production or disclosure.
- b. If a Producing Party requests the return, pursuant to this paragraph, of any such

Discovery Material from another Party, the Party to whom the request is made shall return immediately to the Producing Party all copies of the Discovery Material within its possession, custody, or control — including all copies in the possession of experts, consultants, or others to whom the Discovery Material was provided — unless the Party asked to return the Discovery Material in good faith reasonably believes that the Discovery Material is not privileged. Such good faith belief shall be based on either (i) a facial review of the discovery material or (ii) the inadequacy of any explanations provided by the Producing Party, and shall not be based on an argument that production or disclosure of the Discovery Material waived any privilege. In the event that only portions of the Discovery Material contain privileged subject matter, the Producing Party shall substitute a redacted version of the Discovery Material at the time of making the request for the return of the requested Discovery Material;

c. Should the Party contesting the request to return the Discovery Material pursuant to this paragraph decline to return the Discovery Material, the Producing Party seeking the return of the Discovery Material may thereafter move for an order compelling the return of the Discovery Material. In any such motion, the Producing Party shall have the burden of showing that the Discovery Material is privileged and that the production was inadvertent.

16. If either Party receives a discovery request in another proceeding that may require the disclosure of a Producing Party's Restricted Confidential or Confidential Discovery Material, the recipient of the discovery request shall promptly notify the Producing Party of receipt of such

request. Such notification shall be in writing and be received by the Producing Party at least ten (10) business days before production, and shall include a copy of this Protective Order and a cover letter that will apprise the Producing Party of its rights hereunder. Nothing herein shall be construed as requiring the recipient of the discovery request or anyone else covered by this Order to challenge or appeal any such order requiring production of Restricted Confidential or Confidential Discovery Material, or to subject itself to any penalties for non-compliance with any such order, or to seek any relief from the Administrative Law Judge or the Commission. The recipient shall not oppose Producing Party efforts to challenge the discovery request calling for the production by the recipient of the Producing Party's Confidential Discovery Material. In addition, nothing herein shall limit the applicability of Rule 4.11(e) of the Commission's Rules of Practice, 16 C.F.R. § 4.11(e), to discovery requests in another proceeding that are directed to the Commission.

17. In the event that any Restricted Confidential or Confidential Discovery Material is contained in any pleading, motion, exhibit or other paper (collectively the "papers") filed or to be filed with the Secretary of the Commission, the Secretary shall be so informed by the Party filing such papers, and such papers shall be filed under seal. Restricted Confidential or Confidential Discovery Material contained in the papers (including Restricted Confidential or Confidential Discovery Material from the Parties and Third Parties) shall remain under seal until further order of the Administrative Law Judge; provided, however, that such papers may be furnished to persons or entities who may receive Restricted Confidential or Confidential Discovery Material pursuant to this Order. After filing any paper containing Restricted Confidential or Confidential Discovery Material, the filing Party shall file on the public record

a duplicate copy of the paper with the Restricted Confidential or Confidential Discovery Material deleted pursuant to Section 3.22(b) and 3.45(e) of the Commission's Rules of Practice. Further, if the protection for any such material expires, any Party may file on the public record a duplicate copy which also contains the formerly protected material.

18. This Order governs the disclosure of material during the course of discovery and does not constitute an *in camera* order as provided in Section 3.45 of the Commission's Rules of Practice ("Rule"), 16 C.F.R. § 3.45. If the Parties intend to introduce as evidence at trial any Confidential Discovery Material of a Party or Producing Party, the Disclosing Party must provide at least 10 days notice to the Producing Party, pursuant to 16 C.F.R. § 3.45(b). Any Party or Producing Party may move for *in camera* treatment of any Confidential Discovery Material. A motion for *in camera* treatment must meet the standards set forth in 16 C.F.R. § 3.45.

19. At the time that any Expert/Consultant or other person retained to assist counsel in the preparation of this action concludes participation in this action, such person shall return to counsel all copies of documents or portions thereof designated Restricted Confidential or Confidential Discovery Material that are in the possession of such person, together with all notes, memoranda, or other papers containing Restricted Confidential or Confidential Discovery Material. At the conclusion of this action, any subsequent proceedings based thereon, or any related actions, and upon request of the submitter(s), the Respondent shall return or destroy all documents obtained in these actions that contain or refer to Restricted Confidential or Confidential Discovery Material, other than trial transcripts and trial exhibits admitted into evidence (and, if destroyed, shall provide the submitter with an affidavit of destruction); provided, however, that privileged documents or attorney work product need not

be returned or destroyed. The FTC shall retain, return or destroy documents in accordance with the provisions of Rule 4.12 of the FTC's Rules of Practice, 16 C.F.R. § 4.12.

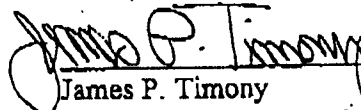
20. The provisions of this Protective Order, insofar as they restrict the communication and use of Restricted Confidential or Confidential Discovery Material, shall, without written permission of the Producing Party or further order of the Administrative Law Judge hearing this Matter, continue to be binding after the conclusion of this Matter.

21. This Protective Order shall not apply to the disclosure by a Producing Party or its Counsel of such Producing Party's Restricted Confidential or Confidential Discovery Material to such Producing Party's employees, agents, former employees, board members, directors, and officers.

22. Nothing in this Protective Order shall be construed to limit, restrict, or otherwise affect the ability of the parties to seek to modify this Protective Order by application to the Administrative Law Judge for good cause shown.

23. Entry of the foregoing Protective Order is without prejudice to the right of the Parties or Third Parties to apply for further protective orders or for modification of any provision of this Protective Order.

ORDERED:


James P. Timony
Administrative Law Judge

Dated: August 5, 2002

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of

RAMBUS, INC.,

a corporation.

Docket No. 9302

DECLARATION CONCERNING PROTECTIVE ORDER

GOVERNING DISCOVERY MATERIAL

I, [NAME], hereby declare and certify the following to be true:

1. [Statement of employment]
2. I have read the "Protective Order Governing Discovery Material" ("Protective Order") issued by Administrative Law Judge James P. Timony on August 5, 2002, in connection with the above captioned matter. I understand the restrictions on my access to and use of any

Restricted Confidential or Confidential Discovery Material (as these terms are used in the Protective Order) in this action and I agree to abide by the Protective Order.

3. I understand that the restrictions on my use of such Restricted Confidential or Confidential Discovery Material include:

- a. that I will use such Restricted Confidential or Confidential Discovery Material only for the purposes of this proceeding, and hearing(s) and any appeal of this proceeding and for no other purpose;
- b. that I will not disclose such Restricted Confidential or Confidential Discovery Material to anyone, except as permitted by the Protective Order;
- c. that I will use, store, and maintain the Restricted Confidential or Confidential Discovery Material in such a way as to ensure its continued protected status;
- d. that upon the conclusion of my involvement in this proceeding I will promptly return all Restricted Confidential or Confidential Discovery Material, and all notes, memoranda, or other papers containing Restricted Confidential or Confidential Discovery Material, to complaint counsel or Respondent's Outside Counsel, as appropriate.

4. I am fully aware that, pursuant to Section 3.42(h) of the Commission's Rules of Practice, 16 C.F.R. § 3.42(h), my failure to comply with the terms of the Protective Order may constitute contempt of the Commission and may subject me to sanctions imposed by the Commission.

Date: _____

Full Name [Typed or Printed]

Signature