

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

**In the Matter of**

**RAMBUS INC.,**

**a corporation.**

**Docket No. 9302**

**RESPONSE BY RESPONDENT RAMBUS INC. TO REQUEST BY  
U.S. DEPARTMENT OF JUSTICE FOR ORDER DELAYING DEPOSITION  
OF MICRON CHIEF EXECUTIVE OFFICER STEVE APPLETON**

Respondent Rambus Inc. (“Rambus”) respectfully submits this response to a request for immediate relief to be filed today by the U.S. Department of Justice (“DOJ”) in connection with the upcoming deposition of Steve Appleton, the Chief Executive Officer of Micron Technology, Inc. (“Micron”). Rambus has not seen the DOJ’s brief, but it understands that the DOJ contends that the Appleton deposition is likely to interfere with an ongoing grand jury investigation of Micron. Rambus further understands that the DOJ will ask Your Honor for an order postponing the deposition of Mr. Appleton until Your Honor rules on a motion by the DOJ to stay discovery relating to certain issues.

Rambus believes that the deposition should go forward, for three reasons. First, Rambus understands from past conversations with Micron’s counsel that Mr. Appleton’s responsibilities and travel schedule make it very difficult to schedule his deposition. Indeed, the deposition has already been continued once since it was originally noticed.

Second, Rambus has offered several proposals regarding a stay that would satisfy the DOJ's concerns in a manner that would not prejudice Rambus's own legitimate discovery needs. *See* ex. A, attached. Finally, *if* the DOJ's request for a postponement is premised on a claim of "likely interference" with the criminal investigation, as the DOJ has suggested, the case law demonstrates that such a claim "falls far short" of the showing required to delay civil discovery. *See Horn v. District of Columbia*, 210 F.R.D. 13, 16 (D.D.C. 2002). *See also United States v. Gieger Transfer Service*, 174 F.R.D. 382, 385 (S.D. Miss. 1997) ("the mere relationship between criminal and civil proceedings, and the resulting prospect that discovery in the civil case could prejudice the criminal proceedings, does not establish the requisite good cause for a stay.")

In short, Your Honor should allow Mr. Appleton's deposition to go forward as scheduled. At a minimum, if the Court postpones the deposition, it should order that Mr. Appleton be made available for deposition within five business days of an order by Your Honor on the merits of the DOJ's motion to stay.

DATED: December 16, 2002      Respectfully submitted,

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Gregory P. Stone  
Steven M. Perry  
Sean P. Gates  
Peter A. Detre  
MUNGER, TOLLES & OLSON LLP  
355 South Grand Avenue, 35<sup>th</sup> Floor  
Los Angeles, California 90071  
(213) 683-9100

A. Douglas Melamed  
IJay Palansky  
Kenneth A. Bamberger\*  
WILMER, CUTLER & PICKERING  
2445 M Street, N.W.  
Washington, D.C. 20037  
(202) 663-6000

Sean C. Cunningham  
John M. Guaragna  
Gray, Cary, Ware & Freidenrich LLP  
401 "B" Street, Suite 2000  
San Diego, California 92101  
(619) 699-2700

\* Admitted in MA and NY only