

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 SUPPORT
OF OPPOSITION TO COMPLAINT COUNSEL'S
MOTION TO COMPEL AN ADDITIONAL DAY OF
DEPOSITION TESTIMONY OF RICHARD CRISP

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 Opposition to Complaint Counsel's Motion to Compel an Additional Day of Deposition Testimony of Richard Crisp. I have personal knowledge of the facts set forth in this declaration, and if called as a witness I could and would testify competently under oath to such facts.

2. Complaint Counsel's motion suggests that discovery in this proceeding has required substantial judicial supervision and motion practice by Complaint Counsel. That is not the case. In the past few months, Rambus has located and produced 450,000 pages

to Complaint Counsel, at a cost to Rambus in excess of \$500,000, without the need for any motion practice at all.¹ Rambus has also produced over twenty current or former Rambus officers, directors or employees for deposition, again without any motion practice. This motion is the first motion brought by Complaint Counsel addressing discovery disputes arising out of the conduct of this case.

3. After Complaint Counsel filed this Motion to Compel, and after consultation with Mr. Crisp, I contacted Geoffrey Oliver (one of the FTC lawyers) and told him that while Mr. Crisp and Rambus did not believe that any additional deposition time was warranted, Mr. Crisp was willing to sit for 3 or 4 additional hours of questioning, as a compromise. Mr. Crisp's only condition was that the questioning occur on a Saturday in light of the intense pressures and travel requirements of his new job. When Mr. Oliver rejected that proposal, Mr. Crisp agreed to sit for a full *five* hours of questioning on a Saturday (again without acknowledging that *any* further questioning was appropriate). Mr. Oliver refused, however, to compromise on the issue.

4. In the course of preparing the opposition to Complaint Counsel's motion to compel, and at my direction, a paralegal in my firm added up the number of hours of questioning of Mr. Crisp in the *Micron* and *Infineon* depositions, in the deposition in this proceeding, and in the *Infineon* trial. According to his calculation, Mr. Crisp has already testified for more than sixty hours.

¹ Complaint Counsel's motion also suggests that the documents attached to the motion were very recently produced. In fact, all or virtually all of the documents in question were produced to Complaint Counsel in or before August 2002, shortly after this proceeding began.

5. I have attached true and correct copies of the documents and deposition testimony referenced in Rambus's opposition brief. These materials are described below.

6. I have attached, as exhibit A, a true and correct copy of a December 31, 2002 letter sent by my colleague, Greg Stone, to Complaint Counsel regarding deposition scheduling. The letter states on page 2 that "because of the press of commitments related to his new job, and in light of the fact that [he] previously has been deposed for eight days and also testified in the *Infineon* trial, Mr. Crisp will agree to appear for only one day of deposition."

7. I have attached, as exhibit B, a true and correct copy of pages 268-271 from the deposition of Richard Crisp, taken in this proceeding on February 14, 2003.

8. I have attached, as exhibit C, a true copy of pages 57-58 and 60 of the transcript of the deposition of Mr. Hans Wiggers, taken in this proceeding on December 18, 2002.

9. I have attached, as exhibit D, a true copy of the September 1994 JEDEC 42.3 "Members Manual." The Members Manual refers on page R156900 to the disclosure of patent-related information by JEDEC members who were presenting a technology or feature for possible standardization. I believe it is undisputed in this matter that Rambus never presented any technology or feature to JEDEC for possible standardization.

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

Executed on March ____, 2003 at Los Angeles, California.

Steven M. Perry

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CERTIFICATE OF SERVICE

I, Jacqueline M. Haberer, hereby certify that on March 7, 2003, I caused a true and correct copy of the public version of the *Declaration of Steven M. Perry in Support of Opposition to Complaint Counsel's Motion to Compel an Additional Day of Deposition Testimony of Richard Crisp* to be served on the following persons by hand delivery:

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