

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

Public Version

In the Matter of

RAMBUS INCORPORATED,

a corporation.

Docket No. 9302

COMPLAINT COUNSEL'S REVISED REPLY FINDINGS
NUMBERED 109, 413, 676, 677, & 700

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109. Rambus joined JEDEC at the beginning of 1992, and it attended its last JEDEC meeting in December 1995. (CX 601 at 1; Crisp 8/10/01 Micron Depo. Tr., 853:18-854:1). Rambus did not pay its 1996 membership dues and formally notified JEDEC in June 1996 that it had withdrawn from the organization. (CX 887 at 1).

Response to Finding No. 109.: This proposed finding is inaccurate. Rambus attended its first JEDEC meeting in December 1991 (*see* JX0010 at 2 (listing Billy Garrett of Rambus in attendance), signed up to join JEDEC five days later, and was formally added to the JEDEC member roll in December 1991 (CCRF 5). Rambus’s membership in JEDEC continued until Rambus formally withdrew from JEDEC in June 1996. (*see* JX0033 at 2-3 (Rambus listed as member)). CCF 217-18.

413. A July 1997 official JEDEC ballot form regarding a proposed DDR SDRAM pinout states: “DDR SDRAMs has been under discussion within JEDEC since September 1996.” (RX 967 at 1).

Response to Finding No. 413.: Complaint Counsel does not disagree that the statement in this proposed finding appears in RX0967.

676. Indeed, Mitsubishi engineers who reviewed the PCT application recognized the correspondence between the access time registers in the PCT application and programmable CAS latency in SDRAMs. Thus, a Mitsubishi document headed “Assessment of Rambus Patents (Second Half) states next to the numbers 95, 97 and 103: “Modifiable Access Time Register (Similar to SDRAM latency control).” (RX 2213A at 25, 27). Claim 103 of the PCT application (and ’898 application) is directed at a “modifiable access-time register.” (CX 1454 at 105). Thus, Mitsubishi recognized that the PCT application and, in particular, Claim 103 of that application, related to the sort of mode register used to store a latency value in SDRAMs.

Response to Finding No. 676: Insofar as this proposed finding asserts that Mitsubishi engineers “recognized the correspondence” between the PCT application and SDRAMs, the proposed finding is vague and ambiguous in that it uses the quoted language without specifying a precise meaning. The finding cites no credible record support for the proposition that Mitsubishi engineers in fact interpreted the PCT application in the fashion

described.

The exhibit numbered RX2213A consists of 27 pages of largely handwritten Japanese, of which only a small portion apparently was translated. The proffered translations of handwritten Japanese contained in 2213A contain multiple notations apparently by the translator stating “illegible” and “guess” with respect to the translation of the original handwritten Japanese. The translation does not appear to be a translation of the entire original document. The translation contains no indication of the name or position of the person or persons who prepared the document. At trial Rambus elicited no testimony whatever from any witness concerning the preparation of the translation, the preparation of the original document or the subject matter of the document, other than to offer the same interpretation of the document that it offers here as a hypothetical question in the cross-examination of Mr. Nusbaum. (Tr. 1650-51).

The proposed finding is incomplete and misleading to the extent that it suggests that claim 103 of the PCT application is directed only to a “modifiable access-time register.” Claim 103 also contains a limitation reciting a bus having “substantially fewer bus lines than the number of bits in a single address.” (CX1451 at 104). Because SDRAMs lack this limitation, claim 103 is not applicable to them. CCFF 1345.

677. In a claim-by-claim analysis of the PCT application produced by Mitsubishi, a marginal note identifies claim 103 of the application as relating to “latency” and “SDRAM.” (RX 2213A at 7). The analysis further indicates that Mitsubishi determined that this claim relating to latency in SDRAMs was particularly important, for Claim 103 was given a grade of “A.” (*Id.*). A later page of the document explains that an “A” grade means that a technology is “important for increasing DRAM speed. . . .” (RX 2213A at 27).

Response to Finding No. 677: The proposed finding is without credible record support for the proposition that Mitsubishi engineers interpreted the PCT application in the fashion described. Exhibit RX2213A does not provide credible support for the proposition

asserted. *See* CCRF 676.

700. In its analyses of Rambus's patents, Mitsubishi focused on some of the four features at issue here. For example, as noted above, a Mitsubishi analysis of the claims of the PCT application specifically calls out the "modifiable access time register" and note its similarity to "SDRAM latency control." (RX 2213A at 27).

Response to Finding No. 700: This proposed finding is without any credible record support, for the reasons set forth at CCRF 676-77.