

PUBLIC

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

**In the Matter of
RAMBUS INC.,
a corporation.**

Docket No. 9302



**REVISED STIPULATION POSTPONING BRIEFING AND STAYING
COMMISSION ACTION ON COMPLAINT COUNSEL'S
MOTION TO COMPEL PRODUCTION OF, AND TO REOPEN
THE RECORD TO ADMIT, DOCUMENTS RELATING TO
RESPONDENT RAMBUS INC.'S SPOILIATION OF EVIDENCE;
PROPOSED ORDER**

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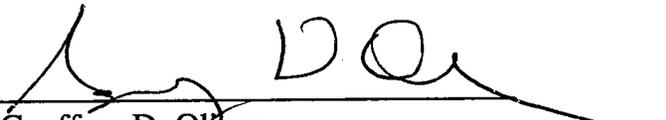
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Attorneys for Respondent Rambus Inc.

On July 2, 2004, Complaint Counsel filed a Motion to Compel Production of, and to Reopen the Record to Admit, Documents Relating to Respondent Rambus Inc.'s Spoliation of Evidence (hereinafter "Motion to Compel and Reopen"). The motion relates to certain documents that a district judge in a related federal case has ordered Rambus to produce. As the motion states, Rambus believes that the rulings in question are legally and factually erroneous, and it filed a Petition for Writ of Mandamus with the Court of Appeals for the Federal Circuit seeking to overturn the rulings in question. *See* Motion, pp. 1 and n.1, 7,14 and Attachment C. On August 18, 2004, a panel of the Federal Circuit denied Rambus's writ petition. On August 25, 2004, Rambus filed a petition for rehearing and rehearing *en banc* with the Federal Circuit. In addition, the district judge stayed his order requiring the production of certain documents by Rambus to Infineon pending the Federal Circuit's resolution of the petition for rehearing and rehearing *en banc*.

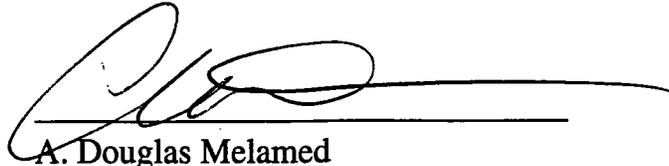
On September 1, 2004, the original Federal Circuit panel denied the petition for rehearing, but the Federal Circuit requested that Infineon respond to the petition for rehearing *en banc* by September 15, 2004. The parties believe that it may be more efficient to postpone briefing and decision of the Motion to Compel and Reopen until after the Federal Circuit resolves the pending request for *en banc* review. Accordingly, the parties jointly request that the Commission enter the [Proposed] Order filed herewith.

Dated: September 3, 2004


Geoffrey D. Oliver
Federal Trade Commission
Washington, D.C. 20580
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COUNSEL SUPPORTING THE
COMPLAINT

Dated: September 3, 2004



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CERTIFICATE OF SERVICE

I, Terri Martin, hereby certify that on September 3, 2004, I caused a copy of the attached, *Revised Stipulation Postponing Briefing and Staying Commission Action on Complaint Counsel's Motion to Compel Production of, and to Reopen the Record to Admit, Documents Relating to Respondent Rambus Inc.'s Spoliation of Evidence and Proposed Order*, to be served upon the following persons:

by hand delivery to:

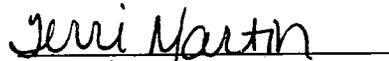
The Commissioners
U.S. Federal Trade Commission
Via Office of the Secretary, Room H-159
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580

and by electronic transmission and overnight courier to:

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Terri Martin

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Deborah Platt Majoras, Chairman
Orson Swindle
Thomas B. Leary
Pamela Jones Harbour
Jon Leibowitz

In the Matter of
RAMBUS INC.,
a corporation.

Docket No. 9302

**PROPOSED ORDER POSTPONING BRIEFING AND STAYING
COMMISSION ACTION ON COMPLAINT COUNSEL'S
MOTION TO COMPEL PRODUCTION OF, AND TO REOPEN
THE RECORD TO ADMIT, DOCUMENTS RELATING TO
RESPONDENT RAMBUS INC.'S SPOILIATION OF EVIDENCE**

Good cause having been shown, IT IS HEREBY ORDERED that further briefing with respect to Complaint Counsel's Motion to Compel Production of, and to Reopen the Record to Admit, Documents Relating to Respondent Rambus Inc.'s Spoliation of Evidence shall be postponed until after the Court of Appeals for the Federal Circuit resolves the Petition for Rehearing *En Banc* that Respondent Rambus Inc. has filed with respect to the two District Court orders referenced in Complaint Counsel's motion.

Respondent shall file its opposition to Complaint Counsel's motion within ten days after the Federal Circuit resolves the pending Petition.

By the Commission.

Donald S. Clark
Secretary

ISSUED: _____, 2004