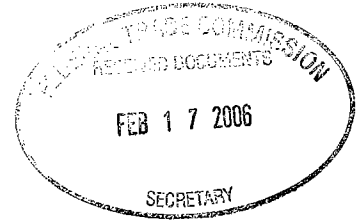


**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS: Deborah Platt Majoras, Chairman
 Pamela Jones Harbour
 Jon Leibowitz
 William E. Kovacic
 J. Thomas Rosch



In the Matter of

RAMBUS INCORPORATED,
a corporation.

Docket No. 9302

PUBLIC

**COMPLAINT COUNSEL'S RESPONSE TO RAMBUS'S
MOTION FOR ADDITIONAL ORAL ARGUMENT**

Nineteen months after the close of briefing on appeal in this matter, Rambus has requested that the Commission schedule a third oral hearing. Respondent's reasons for additional argument in this matter are not compelling, and Complaint Counsel are concerned that scheduling additional oral argument at this late date could add further delay in resolving this matter and set unfortunate precedent for future cases.

Rambus suggests that the combination of new Commissioners and a complex record make this matter appropriate for supplemental argument. While the record in this matter is extensive, the new Commissioners have available to them multiple means of accessing the record, including the full set of post-trial briefs and proposed findings of fact, the transcripts of closing arguments before the ALJ, detailed briefing on appeal, six briefs filed by amici curiae, an extensive set of motions, and additional proposed findings of fact with respect to the newly-admitted documents, in addition to the written transcripts and video tapes of each of the two oral

hearings held before the Commission. It is not clear what would be added by an additional oral hearing at this late date.

Rambus suggests that the “brevity” of the previous oral argument might provide a basis for granting additional oral argument. However, Rambus overlooks the Commission’s highly unusual action of bifurcating the oral hearing into a Technology Day, held in September 2004, and oral argument, held in December 2004. The record already includes over four hours of oral hearings before the Commission in this matter, far more than the one-and-a-half hours typically scheduled in most matters.

Rambus alleges important new developments to justify his request for additional oral argument. Although both parties did supplement the record, the points made in those supplements are fully briefed. The “new scholarship” alluded to is not particularly new, and in any event is hardly grounds for additional oral argument. There are always new developments in the law of some potential relevance to a case; if that were grounds for renewed oral argument, cases would never be decided.

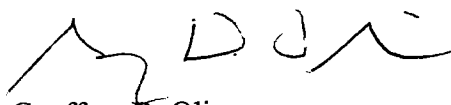
On the other hand, additional oral argument in this matter would raise significant concerns with respect to possible further delay. This matter has already been pending before the Commission for over one-and-a-half years. (This is likely due in considerable part to the extensive and unusual post-hearing briefing caused by Rambus’s initial destruction of evidence and the belated production of the materials that emerged in the *Infineon* litigation and the documents contained on Rambus’s newly-discovered back-up tapes.) In the meantime, Rambus continues to collect royalties. The computer industry, standard-setting organizations and their members, and consumers all would benefit from prompt resolution of this matter on the current

record.

Scheduling additional oral argument could also set an unfortunate precedent for future matters if it were to create an expectation that parties could obtain additional oral argument any time a new Commissioner joined the Commission or the parties perceived there to be a new development of law or fact.

For the foregoing reasons, Complaint Counsel respectfully suggest that Rambus's motion should be denied.

Respectfully submitted,

A handwritten signature in black ink, appearing to be a cursive combination of the names Geoffrey D. Oliver and Patrick J. Roach.

Geoffrey D. Oliver
Patrick J. Roach
Complaint Counsel

February 17, 2006

CERTIFICATE OF SERVICE

I, Beverly A. Dodson, hereby certify that on February 17, 2006, I caused a copy of the attached, *Complaint Counsel's Response to Rambus's Motion For Additional Oral Argument*, 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-135
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580

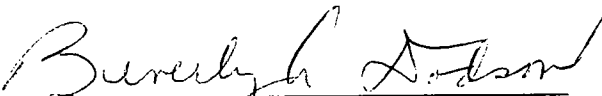
by electronic transmission and courier to:

A. Douglas Melamed, Esq.
Wilmer Cutler Pickering Hale and Dorr LLP
2445 M Street, N.W.
Washington, DC 20037-1402

and by electronic transmission and overnight courier to:

Steven M. Perry, Esq.
Munger, Tolles & Olson LLP
355 South Grand Avenue
35th Floor
Los Angeles, CA 90071

Counsel for Rambus Incorporated


Beverly A. Dodson