

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION



In the Matter of

RAMBUS INCORPORATED,

a corporation.

Docket No. 9302

**COMPLAINT COUNSEL'S MOTION
FOR ENTRY OF SCHEDULING ORDER**

Over the past two weeks, Complaint Counsel and counsel for Respondent Rambus Inc. ("Rambus") have conferred together relating to the scheduling of prehearing events and activities in this case. These discussions have succeeded in narrowing the parties' differences on scheduling-related issues, yet unfortunately a few significant areas of disagreement remain – specifically, (1) the appropriate date for completing fact discovery; (2) the timing of expert discovery and the extent to which it should overlap with fact discovery; and (3) the extent to which the parties' ability to take multiple depositions in a single day should be limited. Until these questions are resolved, it appears the parties will be unable to agree upon a proposed schedule to submit to Your Honor. Once these issues have been resolved, however, both sides have expressed confidence in their ability to work out any remaining scheduling disagreements.

As the record will show, throughout the recent scheduling discussions Complaint Counsel has repeatedly sought to accommodate Rambus's concerns by modifying its own proposals to incorporate provisions and dates more suitable to Rambus. Complaint Counsel believes that its final scheduling proposal sets forth a reasonable and sensible calendar for prehearing proceedings

in this case. Among other things, it allows ample time for fact discovery; embodies a logical and efficient approach to the sequencing of fact and expert discovery; and places reasonable limits on deposition discovery (*i.e.*, two depositions per side per day, unless otherwise ordered or agreed). By this motion, Complaint Counsel therefore requests that Your Honor enter the Proposed Scheduling Order appended hereto as Attachment A. Although Rambus continues to disagree with certain aspects of this proposed order – principally in relation to the three issues highlighted above – we submit that Rambus’s concerns are not well founded, and that Rambus’s alternative scheduling proposals would needlessly inject complication and inefficiency into this proceeding.

A. Overview of Counsel’s Scheduling-Related Discussions

Complaint Counsel initiated scheduling discussions with Rambus’s counsel by proposing, on July 24, a schedule (*see* Attachment B) that closely tracked the original prehearing schedule that Your Honor entered in the *Intel* matter but allotted additional days to complete certain prehearing tasks. As compared to the original *Intel* schedule, for instance, our initial proposed schedule incorporated 27 additional days between the date for exchange of initial disclosures (August 5) and the proposed hearing date (February 24).

Following an initial conference, on July 27 Complaint Counsel proposed a revised schedule (*see* Attachment C) that sought to accommodate various concerns raised by Rambus’s counsel. For example, in response to Rambus’s concerns, our revised scheduling proposal extended by 1-2 weeks the proposed dates for each of the following events:

- the exchange of preliminary witness lists (from September 23 to September 30) and preliminary rebuttal witness lists (from October 18 to October 25);
- the close of both non-expert discovery (from December 13 to December 20) and expert discovery (from January 10 to January 24);

- the exchange of Rebuttal Expert Reports (from December 20 to January 3);
- the deadline for filing motions for summary decision (from January 3 to January 10) and responses thereto (from January 27 to February 5); and
- the deadline for filing pretrial briefs (from February 7 to February 17).

In addition, Complaint Counsel's revised scheduling proposal extended by several days the proposed dates for the final prehearing conference (from February 18 to February 21) and the hearing start date (from February 24 to February 26).

Shortly after transmitting this revised scheduling proposal to Rambus's counsel, Complaint Counsel, on July 29, also proposed a set of additional scheduling order provisions (*see* Attachment D). Thereafter, counsel for both parties spoke once more, at which time Rambus's lawyers provided their input on these "additional provisions" and made further suggestions regarding the prehearing schedule. One of Rambus's primary suggestions was that the deadlines for identifying fact and expert witnesses and providing expert reports be staggered, such that the deadlines applicable to Complaint Counsel would precede by a week or more the deadlines applicable to Rambus. In response to that discussion, on July 31 Complaint Counsel revised its proposed scheduling order once again (*see* Attachment E), incorporating Rambus's proposal to stagger certain witness identification and expert deadlines. Complaint Counsel, at that time, also agreed to the vast majority of Rambus's suggested changes to the "additional provisions" portion of the proposed order.

The Proposed Scheduling Order attached to this motion (Attachment A) is substantially identical to the July 31 draft order (Attachment E), with two very minor differences. First, at the request of Rambus's counsel, we have extended the proposed deadline for filing motions for

summary decision by three days, from January 10 to January 13. Correspondingly, we have also extended the deadline for filing responses to motions for summary decision by three days, from February 5 to February 8. Second, responding to concerns raised by Rambus we have deleted from the “additional provisions” portion of the proposed order a one-sentence paragraph – paragraph 8 of the July 31 draft (*see* Attachment E) – which read, “Expert witnesses shall not be permitted to testify to opinions and conclusions other than those set forth in their expert reports.” As Rambus’s counsel pointed out, this paragraph was unnecessary given that the Commission’s Rules of Practice themselves expressly provide that expert reports “shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor” Rule 3.31(b)(3).

Particularly in light of the various concessions that Complaint Counsel has made to accommodate Rambus, we believe that the proposed scheduling order is eminently reasonable. Nevertheless, in a final attempt to secure Rambus’s agreement on a prehearing schedule to propose to Your Honor in tomorrow’s scheduling conference, late yesterday afternoon (July 31) we offered to revise our proposal once again. The proposal was designed to address all three of the remaining areas of disagreement discussed below – that is, (1) the appropriate date for completing fact discovery; (2) the timing of expert discovery and the extent to which it should overlap with fact discovery; and (3) the extent to which the parties’ ability to take multiple depositions in a single day should be limited. Specifically, to accommodate Rambus, we proposed that the cut-off date for fact discovery could be extended to early January, timed to coincide with the deadline for serving rebuttal expert reports, provided that Rambus would agree to the same limitation on depositions that Your Honor ordered in *Intel* – namely, no more than

two depositions per side per day, unless otherwise ordered or agreed. Rambus rejected this offer, insisting (1) that it should be permitted to conduct at least three depositions per day, and (2) that both fact and expert discovery should continue through the latest possible date, or essentially one month prior to the scheduled hearing. Considering that Rambus has rejected Complaint Counsel's final offer, and that the offer was made in a spirit of ultimate compromise in hopes of securing an agreement, we have elected not to include these features in the proposed order accompanying this motion.¹

B. Remaining Areas of Disagreement

As noted above, in light of the various changes that Complaint Counsel has made to its own scheduling proposal to respond to Rambus's concerns, Rambus's remaining differences with our proposed order are few, and mainly revolve around three issues. We will explain below why, as to each of these issues, we believe the approach taken by Complaint Counsel's proposed order should be preferred over Rambus's alternative proposals.

1. Cut-Off Date for Fact Discovery

Complaint Counsel originally proposed that fact discovery in this matter be concluded by December 13 (*see* Attachment B). We later agreed to extend that deadline to December 20 (*see* Attachment C), which is the same date provided for the close of fact discovery in the proposed

¹ In making this final offer, Complaint Counsel was mindful of the fact that extending fact discovery this late into the prehearing schedule could result in various scheduling complications, which in turn could impact Your Honor's ability to resolve this matter in accordance with the Commission's rules. We made the proposal nonetheless, on the assumption that Your Honor might prefer that the parties agreed upon a single proposed schedule for your consideration. For reasons addressed below, given that our hopes of reaching agreement with Rambus were not realized, Complaint Counsel believes that it is more sensible and reasonable to revert back to a proposed schedule that would require fact discovery to be concluded by late December.

order. On the other hand, Rambus proposes to conclude fact discovery more than a month later – on January 29. Indeed, Rambus proposes January 29 not only as the date for concluding fact discovery, but also as the date for concluding expert discovery. See Rambus’s Proposed Schedule (Attachment F). That is, under Rambus’s proposed schedule, fact and expert discovery would continue simultaneously through the very end of January 2003, which is less than one month prior to Complaint Counsel’s proposed hearing start date (February 26). Putting aside for the moment our concerns with Rambus’s proposal to conduct concurrent fact and expert discovery, we have independent reasons for opposing a late-January fact discovery cut-off, and for favoring our alternative proposal to conclude fact discovery in late December, immediately preceding the year-end holidays.

Concluding fact discovery in this matter by late December is, we believe, both realistic and consistent with customary practice in Part 3 litigation. As to the latter point, we would note that our proposed scheduling order allows only slightly more than eight (8) weeks between the close of fact discovery (December 20) and the proposed hearing start date (February 26), with the first two weeks of that eight-week period obviously coinciding with the holidays. In our view, maintaining a period of at least this length between the close of fact discovery and the hearing start date will be quite important in terms of assuring adequate time to complete other prehearing activities (*e.g.*, expert depositions, summary decision briefing, pretrial briefs, etc.) and to prepare for what we expect to be a lengthy, and at times complex, hearing. Particularly when taking into account the potential complexities of this case (*e.g.*, the presentation of technical testimony concerning memory design and architecture), our proposal to reserve eight weeks between the conclusion of fact discovery and the start of the hearing is sensible, and if anything may border

on being overly aggressive.

In the *Three Tenors* matter, which Rambus's counsel has itself characterized as far less complex than this case,² Your Honor's original scheduling order allotted more than nine (9) weeks between the close of fact discovery and the hearing start date. In a revised scheduling order, Your Honor later extended this period to more than ten (10) weeks. Likewise, in another recent Part 3 case before Your Honor – *Natural Organics* – the original scheduling order allotted more than twelve (12) weeks between the close of fact discovery and the hearing start date. By comparison, Rambus's scheduling proposal would allow only four (4) weeks between the close of fact discovery (January 29) and the hearing start date proposed by Complaint Counsel (February 26). This schedule simply would not provide sufficient time to permit the orderly completion of prehearing activities, even assuming – as Complaint Counsel does – that all counsel will work as efficiently and expeditiously as possible, consistent with the Commission's Part 3 rules. It is inevitable, we fear, that any schedule that so severely truncates the time between the close of fact discovery and the hearing start date will ultimately prove unrealistic, necessitating later scheduling adjustments, and thereby undermining the Commission's directive that Part 3 proceedings "be conducted expeditiously" with "every effort" being made – by "counsel for all parties" – "to avoid delay." Rule 3.1.

Rambus's proposed schedule, in our view, is a recipe for failure. That is, Rambus proposes to set this case at the outset on a course that is destined to lead to further scheduling

² Rambus's lead trial counsel in this action – Munger, Tolles & Olson – was also lead trial counsel for the respondent in *Three Tenors*.

complications and unavoidable delay.³ Rambus's proposed schedule – by extending to the last possible moment the deadline for completing fact discovery – also creates incentives for counsel to be dilatory in pursuing needed discovery. By comparison, Complaint Counsel's proposed schedule provides (although just barely) a realistic period of time between the close of fact discovery and the hearing start date, and thereby minimizes the likelihood of future scheduling complications. While it is true that Complaint Counsel's proposed schedule places pressure on all counsel to move more expeditiously to complete fact discovery, this is precisely what the Commission's Part 3 rules demand.

For all of these reasons, Complaint Counsel urges Your Honor to approve the schedule proposed by this motion, specifically including the December 20 date for concluding all fact discovery.

2. Overlap Between Fact and Expert Discovery

The second significant area of disagreement between Rambus's counsel and Complaint Counsel, as it pertains to the proposed prehearing schedule, concerns the extent to which fact discovery and expert discovery should be conducted simultaneously. Rambus's proposal is that fact and expert discovery continue on parallel tracks through the very end of January – again, roughly four weeks before the proposed hearing start date. Complaint Counsel's proposal, by contrast, would entail both parties providing expert reports while fact discovery is still ongoing – Complaint Counsel's initial expert reports being due November 25, and Rambus's being due on

³ While Rambus might point to the *Intel* case as example of a matter in which fact discovery was permitted to extend closer than eight weeks to the hearing start date, as Your Honor knows, the scheduling order in *Intel* ultimately was revised, extending the hearing date by an additional six weeks. As stated above, Complaint Counsel's proposed schedule was designed in hopes of avoiding future scheduling extensions of the sort that became necessary in *Intel*.

December 16 – with the deadline for the final set of expert reports (Complaint Counsel’s rebuttal expert reports, due January 6),⁴ and the period for all expert depositions, both falling after the close of fact discovery, culminating in the close of expert discovery on January 27.

The merits of and logic behind Complaint Counsel’s proposed approach to scheduling expert discovery are, we believe, self-evident. There simply can be no question but that expert discovery will proceed more smoothly if (as Complaint Counsel proposes) all fact discovery is to be completed before the final set of expert reports is produced and all experts are deposed. Logistically, it would be exceedingly difficult to have expert and fact discovery proceeding simultaneously up to four weeks before the hearing start date. Logistics aside, an even greater problem inherent in Rambus’s proposal is that experts may end up being deposed before fact depositions – material to that expert’s testimony – are even taken. This scenario, which frankly is almost inevitable under Rambus’s proposal, would undermine the finality of the expert reports, which is something the Commission’s rule expressly contemplate. *See* Rule 3.31(b)(3) (expert reports “shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor . . .”). It would also likely lead to experts having to be deposed more than once, with the follow-on depositions necessarily occurring after fact discovery is finally closed (January 29, under Rambus’s proposal), with the likely consequence of causing delays in the prehearing schedule.

⁴ As noted above, the staggered approach to expert depositions, whereby only Complaint Counsel is required to produce rebuttal expert reports, is something that Rambus’s counsel specifically requested and that Complaint Counsel acquiesced to (thereby modifying its original scheduling proposal) in hopes of reaching a scheduling agreement.

As with Rambus's proposal to conclude fact discovery in late January, Rambus's proposal to have expert discovery run concurrently throughout the fact discovery period strikes us as unrealistic, inefficient, and calculated to lead to eventual delays in the scheduled hearing. Complaint Counsel's proposal to stagger fact and expert discovery is, we believe, a far more sensible approach to sequencing prehearing activities and is far more likely to permit this case to proceed on track to the scheduled hearing date.

3. Limits on the Number of Depositions That May Be Taken Per Day

The final area of significant disagreement between Complaint Counsel and Rambus's counsel concerns the number of depositions either side may take per day. Complaint Counsel's original proposal was that no more than two depositions in total be conducted per day, regardless of which party noticed the deposition. *See Attachment D.* In response to Rambus's concerns, we later modified this proposal to provide that both sides would be permitted to take up to two depositions per day, thus allowing for as many as four depositions to proceed on any single day. *See Attachment E.*⁵ This is the same approach envisioned by Complaint Counsel's proposed order. As we understand it, Rambus's position is that it will not agree to limit the number of depositions to anything fewer than three depositions per side per day, or a potential total of six depositions per day.

Our reaction to Rambus's proposal of permitting as many as six depositions to go forward on any given day is that it is unreasonable. At a minimum, we do not believe that Rambus either has demonstrated or could persuasively demonstrate that such an extraordinary number of

⁵ As noted above, this is precisely what Your Honor's scheduling order provided in the *Intel* litigation.

simultaneous deposition tracks is warranted in this case. The only example that Rambus's counsel has suggested as possibly justifying such an approach is the hypothetical scenario in which Rambus is seeking to conduct several relatively short depositions of a given company's employees on a single day in a single location. As we have acknowledged to Rambus's counsel, it may well be in the interests of all concerned – Rambus's counsel and Complaint Counsel alike – to agree to three depositions per day by a single party in such circumstances. Yet such situations are not likely to arise often, and in our view it would be better to address them on a case-by-case basis, either by agreement or, if necessary, by motion.⁶


Our primary concern with Rambus's proposal of allowing six depositions per day on any given day – in addition to the obvious staffing difficulties it might create for Complaint Counsel – is that, once again, it creates incentives for delay and simply invites inefficiency. Knowing that it could, by right, schedule as many as three depositions per day, Rambus might be tempted to delay noticing up depositions until later in the discovery period, confident that it would still be able to complete any needed discovery. By contrast, a more reasonable default rule of two depositions per day per side is likely to discipline counsel into being more efficient in the scheduling of depositions, resulting in a better spacing of discovery across the available period and reducing the likelihood of large numbers of depositions being clustered at the end of the period, which again is something that could put pressure on the overall prehearing schedule, leading to unnecessary and avoidable scheduling delays.

⁶ To reiterate, Complaint Counsel's proposal is not to place an absolute limit on depositions to two per day per party. Rather, our proposed scheduling order provides that this limitation should govern by default where the Administrative Law Judge has not ordered, and the parties have not agreed, to additional depositions on a single day.

CONCLUSION

For all the above reasons, Complaint Counsel respectfully requests that Your Honor enter a prehearing scheduling order in the form reflected in Attachment A to this motion.

Respectfully submitted,



M. Sean Royall
Geoffrey D. Oliver
Malcolm L. Catt

BUREAU OF COMPETITION
FEDERAL TRADE COMMISSION
Washington, D.C. 20580
(202) 326-3663
(202) 326-3496 (facsimile)

COUNSEL SUPPORTING THE COMPLAINT

Dated: August 1, 2002

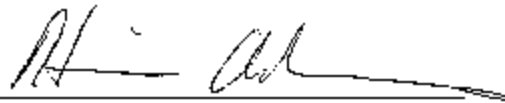
CERTIFICATE OF SERVICE

I, Hiram R. Andrews, hereby certify that on August 1, 2002, I caused a copy of the attached Complaint Counsel's Motion for Entry of Scheduling Order to be served upon the following persons by hand delivery or Federal Express:

The Honorable James P. Timony
Chief Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580

A. Douglas Melamed, Esq.
Wilmer, Cutler & Pickering
2445 M Street N.W.
Washington, DC 20037-1402

Gregory P. Stone
Munger Tolles & Olson LLP
355 South Grand Avenue
35th Floor
Los Angeles, CA 90071



Hiram R. Andrews

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

In the Matter of
RAMBUS INCORPORATED,

a corporation,

Docket No. 9302

**[PROPOSED]
SCHEDULING ORDER**

It is HEREBY ORDERED that this matter shall proceed in accordance with the following Scheduling Order:

EVENT	DATE
Answer filed	7/29
Exchange initial disclosures	8/6
Last day for issuing document requests to the parties	8/30
Last day for issuing party interrogatories (except for those related to requests for admission)	9/23
Complaint Counsel provides preliminary witness list (excluding experts)	9/30
Respondent's Counsel provides preliminary witness list (excluding experts)	10/14
Complaint Counsel identifies experts and provides vita, lists of publications, and lists of matters in which any expert has testified under oath	10/28
Complaint Counsel provides preliminary rebuttal witness list (excluding experts)	11/4
Respondent's Counsel identifies expert(s) and provides vita, lists of publications, and lists of matters in which any expert has testified under oath	11/11

Respondent's Counsel provides preliminary rebuttal witness list (excluding experts)	11/18
Last day to file motions to compel regarding party discovery (except those related to requests for admission)	11/18
Complaint Counsel provides Expert Reports and produces or identifies documents and other written materials relied upon or considered by the experts	11/25
Last day to file requests for admission	12/9
Respondent's Counsel provides Expert Reports and produces or identifies documents and other written materials relied upon or considered by the experts	12/16
Close of discovery other than experts	12/20
Complaint Counsel provides Rebuttal Expert Reports and produces or identifies documents or other written materials relied upon or considered by the experts	1/6
Last day for filing motions for summary decision	1/13
Last day to file motions to compel regarding requests for admission	1/17
Exchange proposed stipulations of law and fact, stipulations of authenticity	
Close of discovery, including experts	1/27
Last day to file responses to motions to compel regarding requests for admission	1/27
Last day to file motions <i>in limine</i> and proposed stipulations	1/29
Exchange of final exhibit and witness lists	1/29
Exchange responses to proposed stipulations of law and fact, stipulations of authenticity	2/7
Last day to file responses to motions for summary decision	2/8
Meet and confer to resolve issues regarding proposed stipulations of law and fact, stipulations of authenticity	2/12
Last day to file responses to motions <i>in limine</i>	2/14
File and serve pretrial briefs	2/17
File final stipulations of law and fact, and final stipulations of authenticity (additional stipulations may be filed as agreed between the parties or as offered by the Administrative Law Judge)	2/19

Final prehearing conference	2/21
Hearing begins	2/26

ADDITIONAL PROVISIONS

1. No more than two depositions per side shall be conducted on any day, unless otherwise agreed by the parties or ordered by the Administrative Law Judge.

2. Compliance with the scheduled end of discovery requires that the parties serve subpoenas and discovery requests sufficiently in advance of the date for close of discovery that all responses and objections will be due on or before that date, unless otherwise noted. Unless a subpoena or discovery request specifically identifies each document it seeks (e.g., Widget Corporation's 1997 Annual Report), the return/response date shall be reasonable and at least ten (10) days after the date on which the subpoena or discovery request issues or is served. Additional discovery shall be permitted only for good cause upon application to and approval by the Administrative Law Judge or by agreement of the parties, including any third party discovery in the event that the opposing party fails to disclose the identity of a third party that may have information that may be relevant to this proceeding in a timely manner in response to a discovery request.

3. The preliminary and final witness lists shall represent counsel's good faith designation of all potential witnesses. Additional witnesses may be added after the submission of the final witness lists only under the following circumstances:

- a. by agreement of counsel with notice to the Administrative Law Judge;
- b. by order of the Administrative Law Judge upon a showing of good cause; or
- c. if needed, to authenticate or provide evidentiary foundation for documents in dispute, with notice to the opposing party and the Administrative Law Judge.

A party seeking to add witnesses after submission of the final witness lists shall promptly notify the other parties of its intention to do so, to facilitate completion of discovery within the dates of the scheduling order. Opposing counsel shall have a reasonable amount of time to subpoena documents for and depose any witness added to the witness list pursuant to this paragraph, even if the discovery takes place during the hearing. Such discovery shall not be subject to the scheduling or notice provisions of paragraph 1 or the minimum return/ response

period for subpoena/discovery requests of paragraph 2 unless otherwise ordered by the Administrative Law Judge.

4. The preliminary and final exhibits list shall represent counsel's good faith designations of all trial exhibits other than demonstrative, illustrative, or summary exhibits. Additional exhibits may be added after submission of the final lists only under the following circumstances:

- a. by agreement of counsel with notice to the Administrative Law Judge;
- b. by order of the Administrative Law Judge upon a showing of good cause; or
- c. where necessary for purposes of impeachment.

5. At the time an expert is first listed as a witness by a party, the party will provide to the other party:

- a. materials fully describing or identifying the background and qualifications of the expert, and all prior cases in which the expert has testified or been deposed; and
- b. transcripts of such testimony in the possession, custody or control of the listing party or the expert, subject to any confidentiality orders entered in prior litigation.

6. The parties shall provide for each testifying expert witness an Expert Report containing the information required by Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure, including all documents and other written materials relied upon or considered by the expert in formulating an opinion in this case. Each side may list (rather than produce) materials relied upon or considered by expert witnesses, to the extent those materials have previously been produced. Unless otherwise agreed by the parties, drafts of expert reports and notes taken by expert witnesses need not be produced. In addition, written communications exchanged between counsel and expert witnesses need not be produced, provided they are not independently subject to discovery.

7. It shall be the responsibility of a party designating an expert witness to ensure that the expert witness is reasonably available for deposition during the six-week period immediately preceding the last date for expert depositions. Unless otherwise agreed by the parties or ordered by the Administrative Law Judge, each expert witness shall be deposed only once.

8. Expert witnesses shall not be permitted to testify to opinions and conclusions other than those set forth in their expert reports.

9. All papers shall be served on Counsel by hand or facsimile by 6:00 p.m. EST on the designated date. Service shall be to Complaint Counsel, M. Sean Royall and Malcolm L. Catt, Federal Trade Commission, 600 Pennsylvania Ave., NW, Room H-372, Washington, DC

20580, and to Respondent's counsel, Steven M. Perry, Munger, Tolles & Olson LLP, 355 South Grand Avenue, 35th Floor, Los Angeles, CA 90071-1560 and A. Douglas Melamed, Wilmer, Cutler & Pickering, 2445 M Street, NW, Washington, DC 20037-1402. All deliveries by facsimile shall be followed promptly by delivery of an original by hand or overnight courier. It shall be the obligation of the serving party to ensure that service by facsimile has been effected.

10. All pleadings that cite to unpublished opinions shall include such cases as exhibits.

11. All pleadings, motions, supporting briefs, objections to discovery, responses to discovery, exhibit lists, witness lists, privilege lists, master lists of documents provided, expert reports, and similar material shall be provided in hard copy (paper) and as e-mail attachments in Microsoft Word, WordPerfect, Microsoft Excel, or Lotus 1-2-3 format if the party or its counsel uses one of these programs to generate the documents described in this paragraph.

12. The procedure for the marking of exhibits is as follows: a one-page exhibit is designated, e.g., CX-1 (for complaint counsel, RX-1 (for respondent's counsel). If there is relevant matter on the back of a page, the exhibit is marked CX-1-A for the front side and CX-1-B for the back side. Capital letters must be used in marking. In the event the documents have many pages which are not bound together, each page and each back side of each page containing relevant matter must be numbered CX-1-A through CX-1-Z-1. Items thereafter are numbered CX-1-Z-2, Z-3, Z-4, etc., as necessary.

ORDERED:

James P. Timony
Administrative Law Judge

Dated:

From: Sean Royall
To: dmelamed@wilmer.com
Date: 7/24/02 11:59AM
Subject: Draft pre-hearing schedule

Doug:

The attached reflects our current thoughts on scheduling. This tracks very closely the Intel schedule, while adding in some additional time. We can discuss later today.

Sean

M. Sean Royall
Deputy Director, Bureau of Competition
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-3663
(202) 326-2884 (fax)
sroyall@ftc.gov

CC: Catt, Malcolm; Oliver, Geoffrey

EVENT	DATE	Intel Date (days added)
Deadline to file answer (complaint filed 6/20)	7/29	
Exchange initial disclosures	8/5	7/20 (16)
Last day for issuing document requests to the parties	8/30	8/10 (20)
Exchange preliminary witness lists (excluding experts) with description of proposed testimony	9/20	9/4 (16)
Last day to file motions to compel regarding responses to document requests issued to the parties	10/4	9/16 (18)
Last day for issuing party interrogatories (except for those related to requests for admission)	10/11	9/9 (32)
Exchange of preliminary rebuttal witness list (excluding experts) with description of proposed testimony	10/25	10/5 (20)
Last day to identify expert(s) and exchange vita, lists of publications and list of matters in which any expert has testified under oath	10/28	10/13 (15)
Last day to file motions to compel regarding party interrogatories (except those related to requests for admission)	11/15	10/16 (31)
Parties exchange Expert Reports and produce or identify documents and other written materials relied upon by the experts in his or her analysis or conclusions	11/25	11/2 (23)
Last day to file requests for admission	12/9	11/23 (16)
Close of discovery other than experts	12/13	12/11 (2)*
Parties exchange Rebuttal Expert Reports and produce or identify documents or other written materials relied upon by the experts in his or her analysis or conclusions	12/20	11/23 (27)
Last day to file motions to compel interrogatories related to requests for admission	12/23	12/7 (16)
Exchange proposed stipulations of law and fact, stipulations of authenticity	12/31	12/15 (16)
Last day to file responses to motions to compel interrogatories related to requests for admission		
Last day for filing motions for summary decision	1/3	12/18 (16)
Close of discovery, including experts	1/10	12/23 (18)
Exchange of final exhibit and witness lists	1/13	12/23 (21)
File motions <i>in limine</i>	1/20	12/29 (22)
File responses to motions for summary decision	1/27	12/29 (29)
Exchange responses to proposed stipulations of law and fact, stipulations of authenticity	1/31	12/30 (32)
File and serve pretrial briefs	2/7	1/4 (34)
Meet and confer to resolve issues regarding proposed stipulations of law and fact, stipulations of authenticity	2/10	1/5 (36)

File responses to motions <i>in limine</i>	2/12	1/6 (37)
File final stipulations of law and fact, final stipulations of authenticity (additional stipulations may be filed as agreed between the parties or as offered by the Administrative Law Judge)	2/14	1/8 (37)
Final prehearing conference	2/18	1/11 (38)
Hearing begins	2/24	1/12 (43)

From: Sean Royall
To: drnelamed@wilmer.com; perrysm@mta.com
Date: 7/27/02 2:39PM
Subject: Revised scheduling order

Doug and Steve:

I have attached a revised scheduling order that seeks to accommodate various points that you all raised yesterday, while also retaining the aspects of our prior draft that we feel strongly about. We look forward to discussing this with you Monday morning. Also, we will want to take up sometime soon other provisions that are likely to be encompassed by the scheduling order -- e.g., process-related issues involving depositions, exhibits, expert discovery, etc.

Regards,

Sean

M. Sean Royall
Deputy Director, Bureau of Competition
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-3663
(202) 326-2884 (fax)
sroyall@ftc.gov

CC: Catt, Malcolm; Oliver, Geoffrey

EVENT	DATE
Deadline to file answer	7/29
Exchange initial disclosures	8/6
Last day for issuing document requests to the parties	8/30
Last day for issuing party interrogatories (except for those related to requests for admission)	9/23
Exchange preliminary witness lists (excluding experts)	9/30
Last day to identify experts and exchange vita, lists of publications, and lists of matters in which any expert has testified under oath	10/28
Exchange preliminary rebuttal witness lists (excluding experts)	11/4
Last day to file motions to compel regarding party discovery (except those related to requests for admission)	11/18
Parties exchange Expert Reports and produce or identify documents and other written materials relied upon or considered by the experts	11/25
Last day to file requests for admission	12/9
Close of discovery other than experts	12/20
Parties exchange Rebuttal Expert Reports and produce or identify documents or other written materials relied upon or considered by the experts	1/3
Last day for filing motions for summary decision	1/10
Last day to file motions to compel interrogatories related to requests for admission	1/17
Exchange proposed stipulations of law and fact, and stipulations of authenticity	
Close of expert discovery	1/24
Last day to file responses to motions to compel interrogatories related to requests for admission	1/27
Last day to file motions <i>in limine</i> and proposed stipulations	1/29
Exchange of final exhibit and witness lists	1/29
Last day to file responses to motions for summary decision	2/5
Exchange responses to proposed stipulations of law and fact, and stipulations of authenticity	2/7
Meet and confer to resolve issues regarding proposed stipulations of law and fact, and stipulations of authenticity	2/12
Last day to file responses to motions <i>in limine</i>	2/14
File and serve pretrial briefs	2/17
File final stipulations of law and fact, and final stipulations of authenticity (additional stipulations may be filed as agreed between the parties or as offered by the Administrative Law Judge)	2/19
Final prehearing conference	2/21
Hearing begins	2/26

From: Sean Royall
To: dmelamed@wilmer.com; perrysm@mto.com
Date: 7/29/02 5:07PM
Subject: Scheduling order provisions

The attached incorporates our last scheduling proposal (the one I sent over the weekend) in the form of an order including additional provisions of the sort we would contemplate being included in any order in our case. We would like to discuss the additional provisions with you on our next call.

Thanks.

M. Sean Royall
Deputy Director, Bureau of Competition
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-3663
(202) 326-2884 (fax)
sroyall@ftc.gov

CC: Catt, Malcolm; Oliver, Geoffrey

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

In the Matter of

RAMBUS INCORPORATED,
a corporation,

Docket No. 9302

SCHEDULING ORDER

It is HEREBY ORDERED that this matter shall proceed in accordance with the following

Scheduling Order:

EVENT	DATE
Deadline to file answer	7/29
Exchange initial disclosures	8/6
Last day for issuing document requests to the parties	8/30
Last day for issuing party interrogatories (except for those related to requests for admission)	9/23
Exchange preliminary witness lists (excluding experts)	9/30
Last day to identify expert(s) and exchange vita, lists of publications, and list of matters in which any expert has testified under oath	10/28
Exchange of preliminary rebuttal witness list (excluding experts)	11/4
Last day to file motions to compel regarding party discovery (except those related to requests for admission)	11/18
Parties exchange Expert Reports and produce or identify documents and other written materials relied upon or considered by the experts	11/25
Last day to file requests for admission	12/9
Close of discovery other than experts	12/20

Parties exchange Rebuttal Expert Reports and produce or identify documents or other written materials relied upon or considered by the experts	1/3
Last day for filing motions for summary decision	1/10
Last day to file motions to compel interrogatories related to requests for admission	1/17
Exchange proposed stipulations of law and fact, stipulations of authenticity	
Close of discovery, including experts	1/24
Last day to file responses to motions to compel interrogatories related to requests for admission	1/27
Last day to file motions <i>in limine</i> and proposed stipulations	1/29
Exchange of final exhibit and witness lists	1/29
Last day to file responses to motions for summary decision	2/5
Exchange responses to proposed stipulations of law and fact, stipulations of authenticity	2/7
File and serve pretrial briefs	2/10
Meet and confer to resolve issues regarding proposed stipulations of law and fact, stipulations of authenticity	2/12
Last day to file responses to motions <i>in limine</i>	2/14
File final stipulations of law and fact, and final stipulations of authenticity (additional stipulations may be filed as agreed between the parties or as offered by the Administrative Law Judge)	2/17
Final prehearing conference	2/19
Hearing begins	2/24

ADDITIONAL PROVISIONS

1. No more than two depositions shall be conducted on any day, unless otherwise agreed by the parties or ordered by the Administrative Law Judge. The Parties shall produce deponents within 20 days of notice of the deposition.

2. Compliance with the scheduled end of discovery requires that the parties serve subpoenas and discovery requests sufficiently in advance of the date for close of discovery that all responses and objections will be due on or before that date, unless otherwise noted. Unless a subpoena or discovery request specifically identifies each document it seeks (e.g., Widget Corporation's 1997 Annual Report), the return/response date shall be reasonable and at least ten (10) days after the date on which the subpoena or discovery request issues or is served. Additional discovery shall be permitted only for good cause upon application to and approval by the Administrative Law Judge or by agreement of the parties, including any third party discovery

in the event that the opposing party fails to disclose the identity of a third party that may have information that may be relevant to this proceeding in a timely manner in response to a discovery request.

3. The preliminary and final witness lists shall represent counsel's good faith designation of all potential witnesses. Additional witnesses may be added after the submission of the final witness lists under the following circumstances:

- a. by agreement of counsel with notice to the Administrative Law Judge;
- b. by order of the Administrative Law Judge upon a showing of good cause; or
- c. if needed, to authenticate or provide evidentiary foundation for documents in dispute, with notice to the opposing party and the Administrative Law Judge.

A party seeking to add witnesses shall promptly notify the other parties of its intention to do so, to facilitate completion of discovery within the dates of the scheduling order. Opposing counsel shall have a reasonable amount of time to subpoena documents for and depose any witness added to the witness list pursuant to this paragraph, even if the discovery takes place during the hearing. Such discovery shall not be subject to the scheduling or notice provisions of paragraph 1 or the minimum return/ response period for subpoena/discovery requests of paragraph 2 unless otherwise ordered by the Administrative Law Judge.

4. The preliminary and final exhibits list shall represent counsel's good faith designations of all trial exhibits other than demonstrative, illustrative, or summary exhibits. Additional exhibits may be added after submission of the final lists under the following circumstances:

- a. by agreement of counsel with notice to the Administrative Law Judge;
- b. by order of the Administrative Law Judge upon a showing of good cause; or
- c. where necessary for purposes of impeachment.

5. At the time an expert is first listed as a witness by a party, the party will provide to the other party:

- a. materials fully describing or identifying the background and qualifications of the expert, and all prior cases in which the expert has testified or been deposed; and
- b. transcripts of such testimony in the possession, custody or control of the listing party or the expert.

6. The parties shall provide for each testifying expert witness an Expert Report

containing the information required by Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure, including all documents and other written materials relied upon or considered by the expert in formulating an opinion in this case. Each side may list (rather than produce) materials relied upon or considered by expert witnesses, to the extent those materials have previously been produced. Unless otherwise agreed by the parties, drafts of expert reports and notes taken by expert witnesses need not be produced. In addition, written communications exchanged between counsel and expert witnesses need not be produced (provided they are not independently subject to discovery) unless the expert is relying upon any aspect of, or information included in, such communication. The parties shall cooperate in scheduling the depositions of any rebuttal expert witnesses, whose depositions may be taken, if necessary, during the hearing in the matter.

7. It shall be the responsibility of a party designating an expert witness to ensure that the expert witness is reasonably available for deposition during the six-week period immediately preceding the last date for expert depositions.

8. All papers shall be served by hand or facsimile by 6:00 p.m. on the designated date. Hand deliveries shall be to Complaint Counsel, M. Sean Royall and to Malcolm L. Catt, Federal Trade Commission, 600 Pennsylvania Ave., N.W., Room H-372, Washington, DC 20580 and to Respondent's counsel. ... All deliveries by facsimile shall be followed promptly by delivery of an original by hand or by U.S. mail, first class postage prepaid. It shall be the obligation of the serving party to ensure that service by facsimile has been effected.

9. All pleadings that cite to unpublished opinions shall include such cases as exhibits.

10. All pleadings, motions, supporting briefs, objections to discovery, responses to discovery, exhibit lists, witness lists, privilege lists, master lists of documents provide, expert reports, and similar material shall be provided in hard copy (paper) and on a 3.5" floppy disk in Microsoft Word, WordPerfect, Microsoft Excel, or Lotus 1-2-3 format if the party or its counsel uses one of these programs to generate the documents described in this paragraph.

11. The procedure for the marking of exhibits is as follows: a one-page exhibit is designated, e.g., CX-1 (for complaint counsel, RX-1 (for respondent's counsel). If there is relevant matter on the back of a page, the exhibit is marked CX-1-A for the front side and CX-1-B for the back side. Capital letters must be used in marking. In the event the documents have many pages which are not bound together, each page and each back side of each page containing relevant matter must be numbered CX-1-A through CX-1-Z-1. Items thereafter are numbered CX-1-Z-2, Z-3, Z-4, etc., as necessary.

ORDERED:

James P. Timony

Administrative Law Judge

Dated:

From: Sean Royall
To: dmelamed@wilmer.com; perrysm@mto.com
Date: 7/31/02 1:15PM
Subject: Further revision of proposed scheduling order (with attachment)

Steve and Doug:

In light of our discussion yesterday, we have gone back and revised our proposed schedule and the "additional provisions" at the end of the proposed scheduling order.

As for the schedule itself, we have made changes to accommodate your preference for staggering the identification of witnesses (both fact and expert) and the provision of expert reports. After reviewing the prior schedules approved by Judge Timony that you identified, it appeared to us that two weeks was a reasonable period of time for staggering the deadlines regarding identification of witnesses. With regard to experts, however, we staggered the deadlines by 3 weeks - i.e., your expert reports would be due 3 weeks after ours, and our rebuttal expert reports three weeks after that (the last period coinciding with the year-end holidays).

In response to concerns you raised, we have also revised the additional provisions, adopting most of your proposed changes. As for paragraph 1, we did delete the second sentence as you requested. We also modified the first sentence to follow verbatim the approach to depositions that was approved by Judge Timony in Intel - i.e., no more than 2 depositions per side per day.

After discussing this, we have concluded that it probably would be helpful to Judge Timony if we filed something focusing him on the remaining areas of disagreement. We expect that we will have something ready to file tomorrow morning. If after reviewing the attachment you have any further thoughts or would like to discuss the matter, please let us know.

Thanks,

Sean

M. Sean Royall
Deputy Director, Bureau of Competition
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-3663
(202) 326-2884 (fax)
sroyall@ftc.gov

CC: Catt, Malcolm; Oliver, Geoffrey

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

<p style="text-align: center;">In the Matter of</p> <p style="text-align: center;">RAMBUS INCORPORATED,</p> <p style="text-align: center;">a corporation,</p>	<p style="text-align: center;">Docket No. 9302</p>
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[PROPOSED]
SCHEDULING ORDER

It is HEREBY ORDERED that this matter shall proceed in accordance with the following Scheduling Order:

EVENT	DATE
Answer filed	7/29
Exchange initial disclosures	8/6
Last day for issuing document requests to the parties	8/30
Last day for issuing party interrogatories (except for those related to requests for admission)	9/23
Complaint Counsel provides preliminary witness list (excluding experts)	9/30
Respondent's Counsel provides preliminary witness list (excluding experts)	10/14
Complaint Counsel identifies experts and provides vita, lists of publications, and lists of matters in which any expert has testified under oath	10/28
Complaint Counsel provides preliminary rebuttal witness list (excluding experts)	11/4
Respondent's Counsel identifies expert(s) and provides vita, lists of publications, and lists of matters in which any expert has testified under oath	11/11
Respondent's Counsel provides preliminary rebuttal witness list (excluding experts)	11/18
Last day to file motions to compel regarding party discovery (except those related to requests for admission)	11/18

Complaint Counsel provides Expert Reports and produces or identifies documents and other written materials relied upon or considered by the experts	11/25
Last day to file requests for admission	12/9
Respondent's Counsel provides Expert Reports and produces or identifies documents and other written materials relied upon or considered by the experts	12/16
Close of discovery other than experts	12/20
Complaint Counsel provides Rebuttal Expert Reports and produces or identifies documents or other written materials relied upon or considered by the experts	1/6
Last day for filing motions for summary decision	1/10
Last day to file motions to compel regarding requests for admission	1/17
Exchange proposed stipulations of law and fact, stipulations of authenticity	
Close of discovery, including experts	1/27
Last day to file responses to motions to compel regarding requests for admission	1/27
Last day to file motions <i>in limine</i> and proposed stipulations	1/29
Exchange of final exhibit and witness lists	1/29
Last day to file responses to motions for summary decision	2/5
Exchange responses to proposed stipulations of law and fact, stipulations of authenticity	2/7
Meet and confer to resolve issues regarding proposed stipulations of law and fact, stipulations of authenticity	2/12
Last day to file responses to motions <i>in limine</i>	2/14
File and serve pretrial briefs	2/17
File final stipulations of law and fact, and final stipulations of authenticity (additional stipulations may be filed as agreed between the parties or as offered by the Administrative Law Judge)	2/19
Final prehearing conference	2/21
Hearing begins	2/26

ADDITIONAL PROVISIONS

1. No more than two depositions per side shall be conducted on any day, unless otherwise agreed by the parties or ordered by the Administrative Law Judge.
2. Compliance with the scheduled end of discovery requires that the parties serve subpoenas and discovery requests sufficiently in advance of the date for close of discovery that

all responses and objections will be due on or before that date, unless otherwise noted. Unless a subpoena or discovery request specifically identifies each document it seeks (e.g., Widget Corporation's 1997 Annual Report), the return/response date shall be reasonable and at least ten (10) days after the date on which the subpoena or discovery request issues or is served. Additional discovery shall be permitted only for good cause upon application to and approval by the Administrative Law Judge or by agreement of the parties, including any third party discovery in the event that the opposing party fails to disclose the identity of a third party that may have information that may be relevant to this proceeding in a timely manner in response to a discovery request.

3. The preliminary and final witness lists shall represent counsel's good faith designation of all potential witnesses. Additional witnesses may be added after the submission of the final witness lists only under the following circumstances:

- a. by agreement of counsel with notice to the Administrative Law Judge;
- b. by order of the Administrative Law Judge upon a showing of good cause; or
- c. if needed, to authenticate or provide evidentiary foundation for documents in dispute, with notice to the opposing party and the Administrative Law Judge.

A party seeking to add witnesses after submission of the final witness lists shall promptly notify the other parties of its intention to do so, to facilitate completion of discovery within the dates of the scheduling order. Opposing counsel shall have a reasonable amount of time to subpoena documents for and depose any witness added to the witness list pursuant to this paragraph, even if the discovery takes place during the hearing. Such discovery shall not be subject to the scheduling or notice provisions of paragraph 1 or the minimum return/response period for subpoena/discovery requests of paragraph 2 unless otherwise ordered by the Administrative Law Judge.

4. The preliminary and final exhibits list shall represent counsel's good faith designations of all trial exhibits other than demonstrative, illustrative, or summary exhibits. Additional exhibits may be added after submission of the final lists only under the following circumstances:

- a. by agreement of counsel with notice to the Administrative Law Judge;
- b. by order of the Administrative Law Judge upon a showing of good cause; or
- c. where necessary for purposes of impeachment.

5. At the time an expert is first listed as a witness by a party, the party will provide to the other party:

- a. materials fully describing or identifying the background and qualifications of the expert, and all prior cases in which the expert has testified or been deposed; and
- b. transcripts of such testimony in the possession, custody or control of the listing party or the expert, subject to any confidentiality orders entered in prior litigation.

6. The parties shall provide for each testifying expert witness an Expert Report containing the information required by Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure, including all documents and other written materials relied upon or considered by the expert in formulating an opinion in this case. Each side may list (rather than produce) materials relied upon or considered by expert witnesses, to the extent those materials have previously been produced. Unless otherwise agreed by the parties, drafts of expert reports and notes taken by expert witnesses need not be produced. In addition, written communications exchanged between counsel and expert witnesses need not be produced, provided they are not independently subject to discovery.

7. It shall be the responsibility of a party designating an expert witness to ensure that the expert witness is reasonably available for deposition during the six-week period immediately preceding the last date for expert depositions. Unless otherwise agreed by the parties or ordered by the Administrative Law Judge, each expert witness shall be deposed only once.

8. Expert witnesses shall not be permitted to testify to opinions and conclusions other than those set forth in their expert reports.

9. All papers shall be served on Counsel by hand or facsimile by 6:00 p.m. EST on the designated date. Service shall be to Complaint Counsel, M. Sean Royall and Malcolm L. Catt, Federal Trade Commission, 600 Pennsylvania Ave., NW, Room H-372, Washington, DC 20580, and to Respondent's counsel, Steven M. Perry, Munger, Tolles & Olson LLP, 355 South Grand Avenue, 35th Floor, Los Angeles, CA 90071-1560 and A. Douglas McInamed, Wilmer, Cutler & Pickering, 2445 M Street, NW, Washington, DC 20037-1402. All deliveries by facsimile shall be followed promptly by delivery of an original by hand or overnight courier. It shall be the obligation of the serving party to ensure that service by facsimile has been effected.

10. All pleadings that cite to unpublished opinions shall include such cases as exhibits.

11. All pleadings, motions, supporting briefs, objections to discovery, responses to discovery, exhibit lists, witness lists, privilege lists, master lists of documents provided, expert reports, and similar material shall be provided in hard copy (paper) and as e-mail attachments in Microsoft Word, WordPerfect, Microsoft Excel, or Lotus 1-2-3 format if the party or its counsel uses one of these programs to generate the documents described in this paragraph.

12. The procedure for the marking of exhibits is as follows: a one-page exhibit is designated, e.g., CX-1 (for complaint counsel, RX-1 (for respondent's counsel). If there is

relevant matter on the back of a page, the exhibit is marked CX-1-A for the front side and CX-1-B for the back side. Capital letters must be used in marking. In the event the documents have many pages which are not bound together, each page and each back side of each page containing relevant matter must be numbered CX-1-A through CX-1-Z-1. Items thereafter are numbered CX-1-Z-2, Z-3, Z-4, etc., as necessary.

ORDERED:

James P. Timony
Administrative Law Judge

Dated:

From: "Perry, Steven" <PerrySM@mto.com>
To: "sroyall@ftc.gov" <sroyall@ftc.gov>, "golivcr@ftc.gov" <golivcr@ftc.gov>, "mcatt@ftc.gov" <mcatt@ftc.gov>
Date: 7/29/02 10:02AM
Subject: Rambus's Proposed Schedule - revised

Here's a revised proposed schedule for your review. The "revised FTC date" column reflects the dates you proposed over the weekend. This proposal is subject to change; it has not been reviewed by the client in light of the time difference and the weekend, but I wanted you to have it for the call this morning. The date for the close of discovery is somewhat negotiable, but we are increasingly concerned that our hands are being tied by Micron and Infineon, and we cannot agree to an earlier date unless we can get some comfort that we won't lose a month or more with motions to amend the protective orders in the patent cases (or with subpoenas in this action that duplicate the discovery already taken).

<<Rambus's Proposed Schedule_v1.DOC>>

CC: "Melamed, Doug" <DMelamed@wilmer.com>, "Gates, Sean" <GatesSP@mto.com>

DRAFT
7/28/02

Rambus's Proposed Schedule

EVENT	RAMBUS DATE	REVISED FTC DATE	REVISED RAMBUS DATE
Deadline to file answer (complaint filed 6/20)	7/29	7/29	7/29
Exchange initial disclosures	8/6	8/6	8/6
Last day for issuing document requests to the parties	8/30	8/30	8/30
Last day for issuing party interrogatories (except for those related to requests for admission)	9/9	9/23	9/23
Exchange of preliminary witness list (excluding experts) with description of proposed testimony	11/13	10/28	10/31
Last day to identify expert(s) and exchange vita, lists of publications and list of matters in which any expert has testified under oath	11/20	10/28	11/8
Last day to file motions to compel regarding party discovery (except those related to requests for admission)	11/25	11/18	11/20
Parties exchange Expert Reports and produce or identify documents and other written materials relied upon by the experts in his or her analysis or conclusions	12/6	11/25	12/4
Exchange of preliminary rebuttal witness list (excluding experts)	12/16	11/4	11/27
Last day to file requests for admission	12/23	12/9	12/13
Parties exchange Rebuttal Expert Reports and produce or identify documents or other written materials relied upon by the experts in his or her analysis or conclusions	1/10	1/3	1/8
Last day to file [motion to compel re] responses to requests for admission	1/10	?	?
Last day for filing motions for summary decision	1/22	1/10	1/17
Close of discovery	1/29 (all)	12/20 (fact) 1/24 (expert)	1/29 (all)
Exchange of final exhibit and witness lists	1/29	1/29	1/29
File motions <i>in limine</i> and proposed stipulations	1/29	1/29	1/29
File responses to motions for summary decision	2/5	2/5	2/7
File responses to motions <i>in limine</i>	2/11	2/14	2/14
Exchange responses to proposed stipulations of law and fact, stipulations of authenticity	2/11	2/7	2/11
File and serve pretrial briefs	2/14	2/17	2/17
Meet and confer to resolve issues regarding proposed stipulations of law and fact, stipulations of authenticity	2/17	2/12	2/13
File final stipulations of law and fact, final stipulations of authenticity (additional stipulations may be filed as agreed between the parties or as offered by the Administrative Law Judge)	2/21	2/19	2/21
Final prehearing conference	2/26	2/21	2/26
Hearing begins	3/3	2/26	3/3