

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

Before The Honorable James P. Timony
Administrative Law Judge

In the matter of)	
)	
RAMBUS INCORPORATED,)	Docket No. 9302
)	
a corporation.)	

**MEMORANDUM OF MICRON TECHNOLOGY, INC. IN SUPPORT OF
MOTION OF UNITED STATES DEPARTMENT OF JUSTICE
TO STAY DISCOVERY**

Non-party Micron Technology, Inc. (“Micron”) respectfully files this memorandum in support of the motion of the United States Department of Justice (the “Department”) to stay discovery pending consideration of a motion to limit discovery relating to a pending grand jury investigation. Micron is submitting this memorandum because Rambus, in its first “response” to the Department’s motion (filed before the Department had filed its motion), specifically raised the issue of the deposition of Micron’s Chairman, President and Chief Executive Officer, Steven Appleton.

In its “Preliminary Further Response” to the Department’s motion, Rambus has complained that the current discovery schedule has been disrupted by the cancellation of Mr. Appleton’s deposition. Your Honor should be aware of all the facts. Rambus had scheduled the depositions of four Micron witnesses this week. Two have been produced for deposition, notwithstanding the Department’s motion, because it is not foreseeable

that these witnesses will have testimony concerning any matters occurring before the grand jury. Rather, it is anticipated that they will be questioned on the issues relevant to this case, such as matters relating to JEDEC and the relevant markets for DRAM technology. A third Micron witness, Jan Du Preez, was scheduled for deposition on Friday, December, 20. However, on Monday, Rambus requested a postponement of that deposition until a mutually agreeable date in January. Thus, the sole remaining issue is the 4-1/2 hour deposition of Mr. Appleton.

Micron canceled Mr. Appleton's deposition upon the filing of the Department's motion because it was aware that Rambus had refused to limit its discovery into matters occurring before the grand jury, *see* Lynch Decl. ¶10, and thus going forward would risk rendering moot, at least in part, the relief sought by the Department. At the same time, Micron told Rambus and complaint counsel that it will produce Mr. Appleton for deposition after a ruling on the Department's motion, and has already proposed two dates for the deposition in the event a ruling is issued by then. *See* Exhibit B to Rambus's Preliminary Further Response to the Department's Motion. These dates coincide with the time frame when Rambus has scheduled depositions of other Micron witnesses in Boise. It is not possible at this late hour to reschedule Mr. Appleton's deposition for tomorrow.¹

¹Previously, after Your Honor ordered Micron to produce documents on a schedule that would not be completed until December 25, Micron proposed delaying the Appleton deposition until the completion of document discovery to avoid having its CEO subject to a second day of deposition after the document production was completed. Rambus refused to postpone the deposition but reserved its right to seek a second day of deposition. This possibility is an additional reason to allow a short delay in the deposition in order to permit the scope of the deposition to be determined and avoid the need to recall Mr. Appleton.

In light of the very limited effect the delay of this one deposition will have on the pretrial schedule, Micron respectfully submits that the deposition should not go forward.

Accordingly, Micron respectfully requests that the motion of the Department of Justice be granted.

Respectfully submitted,

William J. Baer
Richard L. Rosen
Arnold & Porter
555 12th Street, N.W.
Washington, D.C. 20004

Dated: December 18, 2002