

PUBLIC

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

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

DECLARATION OF GREGORY P. STONE

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1. I, Gregory P. Stone, have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently under oath to such facts.

2. I am a member of the law firm of Munger, Tolles & Olson LLP, counsel for Rambus Inc. in this proceeding. On December 18, 2002, I met and conferred with Complaint Counsel regarding, *inter alia*, the scope of discovery into privileged attorney-client communications and work product materials in this proceeding. During that discussion, Complaint Counsel asserted the position that a discovery order entered by Judge Payne in Rambus's civil lawsuit with Infineon, which required Rambus to produce certain documents containing attorney-client communications and to allow witnesses to testify regarding such communications, was entitled to preclusive effect in this proceeding. Complaint Counsel argued that, based on the doctrine of collateral estoppel, they were entitled to use the documents Rambus had produced pursuant Judge Payne's discovery order, and to question witnesses in this proceeding concerning the topics addressed in such documents.

3. Deposition discovery of current and former Rambus employees began on January 7, 2002. At the first deposition I attended, I notified Complaint Counsel that, after consideration of Complaint Counsel's position, Rambus had decided not to assert privilege in this proceeding as to the documents subject to the prior discovery order entered by Judge Payne in the *Infineon* litigation, but that Rambus would assert privilege as to privileged communications, whether oral or written, that were outside the temporal and subject matter scope of Judge Payne's order.

4. Specifically, I made a statement on the record at the deposition of Dr. Michael Farmwald as follows: "If you're going to delve into the patent prosecution area, I just want to make clear that we do not contend that documents or testimony regarding conduct or communications during the time period '91 through June of '96 that were covered by Judge Payne's ruling that the privilege was vitiated are privileged. Was that clear? We do not contend that the attorney-client privilege still protects the areas as to which Judge Payne ruled the privilege had been vitiated." After a brief discussion, I restated Rambus's position as follows: "Rambus will not contend that the attorney-client privilege still protects the documents and testimony previously privileged as to which Judge Payne had found the privilege to be vitiated."

Executed this 20th day of January, 2003, at San Francisco, California.

I declare under penalty of perjury that the foregoing is true and correct.

Gregory P. Stone

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CERTIFICATE OF SERVICE

I, Jacqueline M. Haberer, hereby certify that on January 21, 2003, I caused a true and correct copy of the *Declaration of Gregory P. Stone* to be served on the following persons by hand delivery:

Hon. James P. Timony
Administrative Law Judge
Federal Trade Commission
Room H-112
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

M. Sean Royall
Deputy Director, Bureau of Competition
Federal Trade Commission
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Jacqueline M. Haberer