

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

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

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

**ORDER INVITING COMPLAINT COUNSEL TO FILE A  
BRIEF EXPRESSING THEIR VIEWS ON THE MOTION  
OF NON-PARTY MITSUBISHI ELECTRIC CORP.  
TO ENFORCE PROTECTIVE ORDER**

On April 12, 2004, Mitsubishi Electric Corp. (“Mitsubishi”) filed a motion styled “Motion of Non-Party Mitsubishi Electric Corporation To Enforce Protective Order” (“Motion”). The Motion argues that certain documents Mitsubishi produced to Rambus are “Discovery Material” covered by the use restrictions in the August 5, 2002 Protective Order issued by Administrative Law Judge Timony, and requests that the Commission issue an order adopting that position and requiring Rambus to advise Mitsubishi when and to whom Rambus or its counsel has disclosed those documents. On April 19, 2004, Rambus filed its answer opposing that Motion, supported by the Declaration of Steven M. Perry. On April 23, 2004, Mitsubishi filed a motion for leave to file a reply along with a copy of that reply.

To resolve Mitsubishi’s Motion, the Commission must determine whether documents obtained from Mitsubishi are covered by the terms of the Protective Order. Resolution of Mitsubishi’s Motion has substantial implications for the integrity of compulsory process in general and of discovery practice in Commission enforcement actions in particular. The ability to compel production of documents located in other countries raises critical issues regarding the Commission’s ability to investigate and litigate effectively, as does the production of such documents by alternative means that avoid adjudication of subpoena enforcement issues. Further, the extent to which a particular document obtained in lieu of compulsory process in this matter will be protected from improper use or disclosure raises broader questions about confidentiality law and policy at the Commission. The Commission therefore has determined that the views of Complaint Counsel would assist in the review of this Motion. Accordingly,

Complaint Counsel are **INVITED** to file a brief expressing their views on or before October 18, 2004; and

**IT IS ORDERED THAT** Mitsubishi's April 23, 2004 motion for leave to file a reply be, and it hereby is, **GRANTED**.

By the Commission.

Donald S. Clark  
Secretary

ISSUED: October 4, 2004