UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION COMPLAINT COUNSEL'S MOTION

Over the past two weeks, Complaint Counsel and counsel for Respondent Rambus Inc.

FOR ENTRY OF SCHEDULING ORDER

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

- 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).

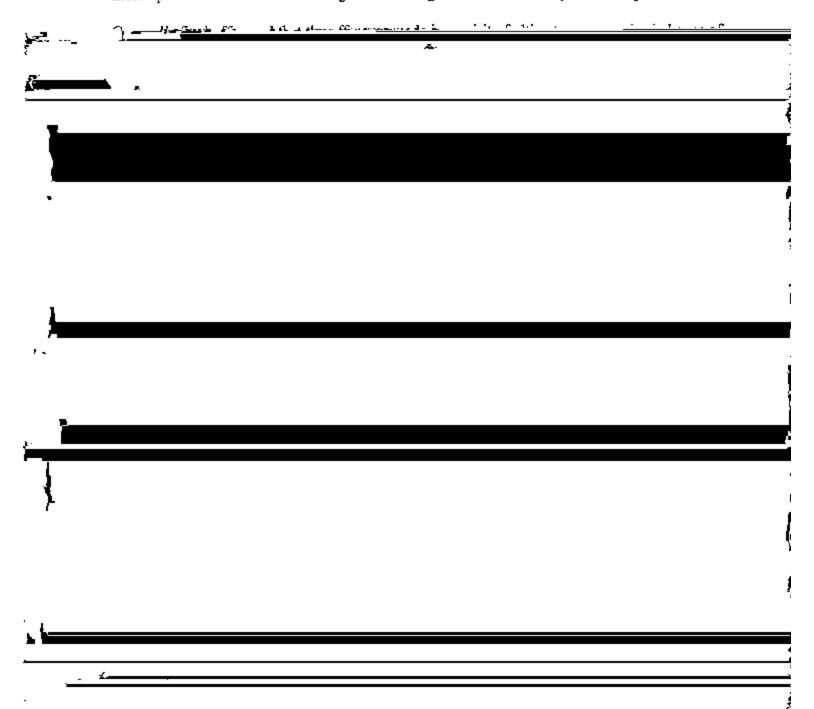
In addition, Complaint Counsel's revised scheduling proposal extended by several days the proposed dates for the final prehearing conference (from February 18 to February 21) and the hearing start date (from February 24 to February 26).

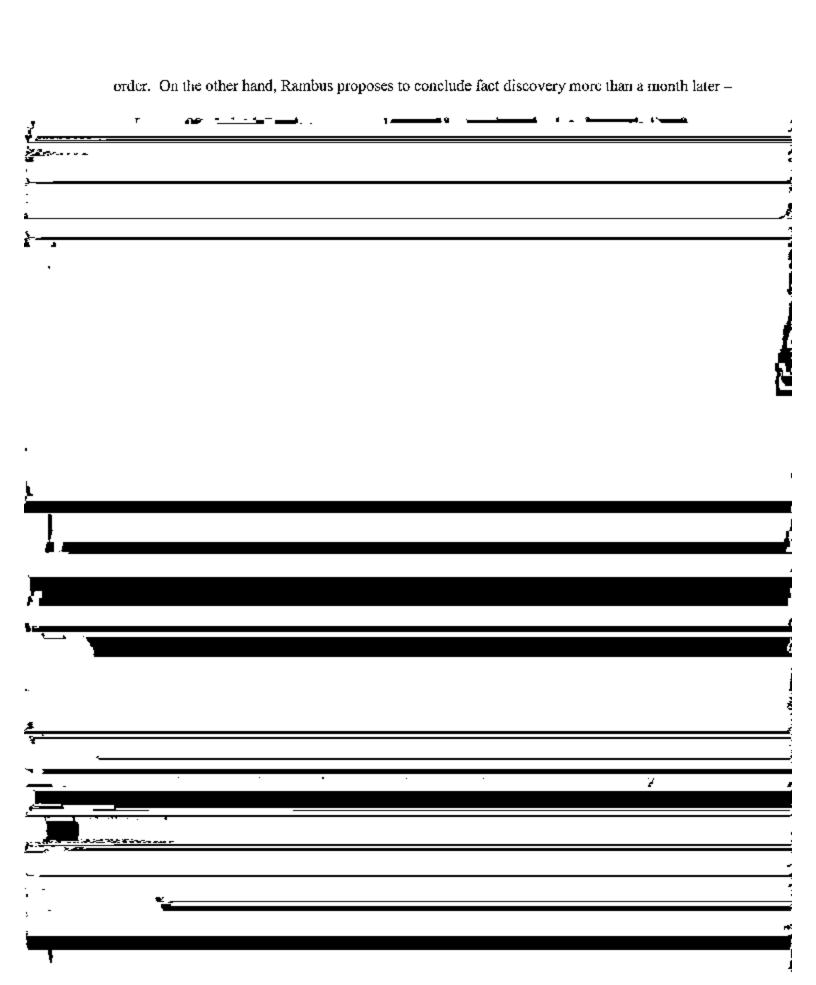
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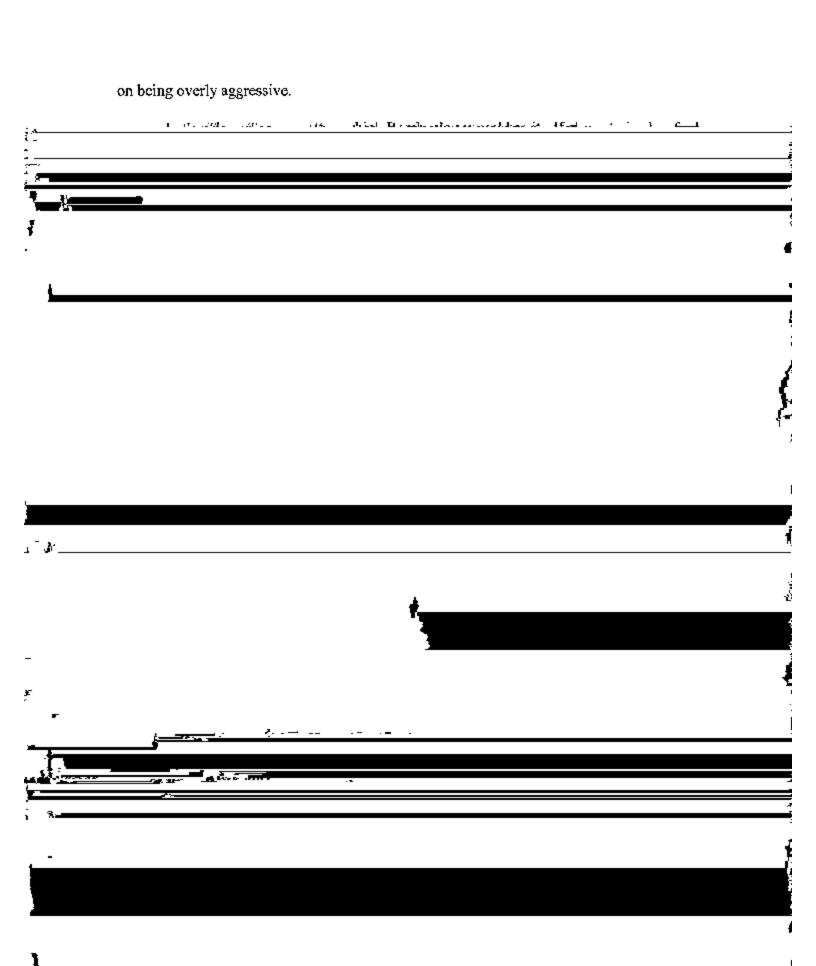
summary decision by three days, from January 10 to January 13. Correspondingly, we have also extended the deadline for filing responses to motions for summary decision by three days, from February 5 to February 8. Second, responding to concerns raised by Rambus we have deleted from the "additional provisions" 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."

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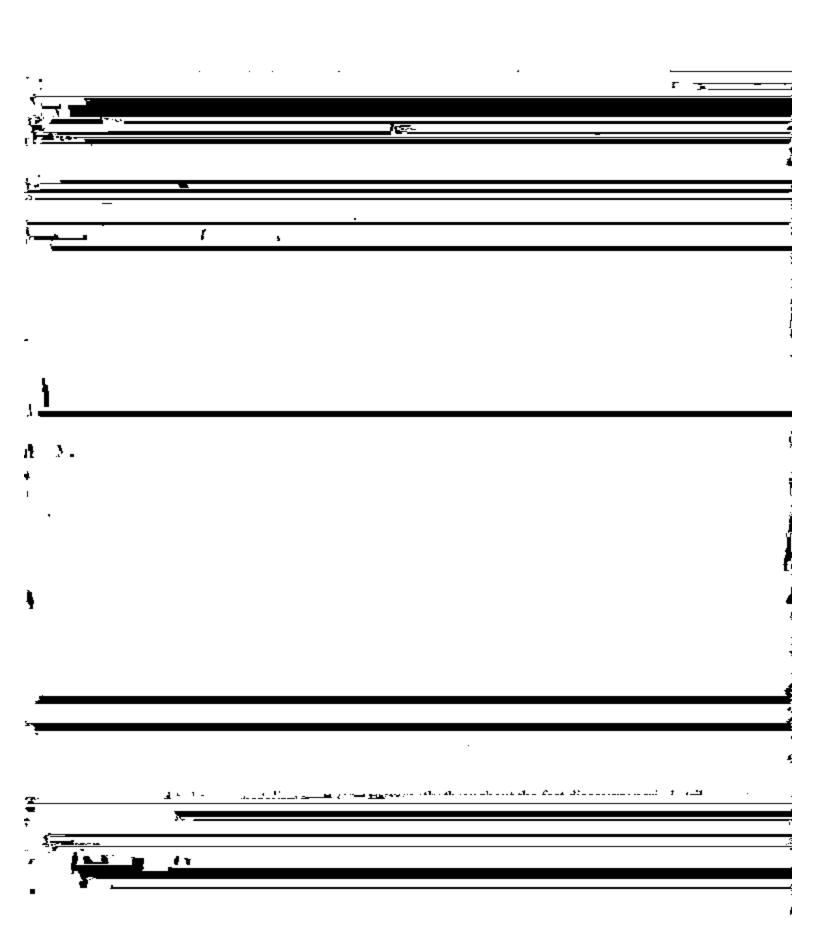
two depositions per side per day, unless otherwise ordered or agreed. Rambus rejected this offer, insisting (1) that it should be permitted to conduct at least three depositions per day; and (2) that both fact and expert discovery should continue through the latest possible date, or essentially one month prior to the scheduled hearing. Considering that Rambus has rejected Complaint

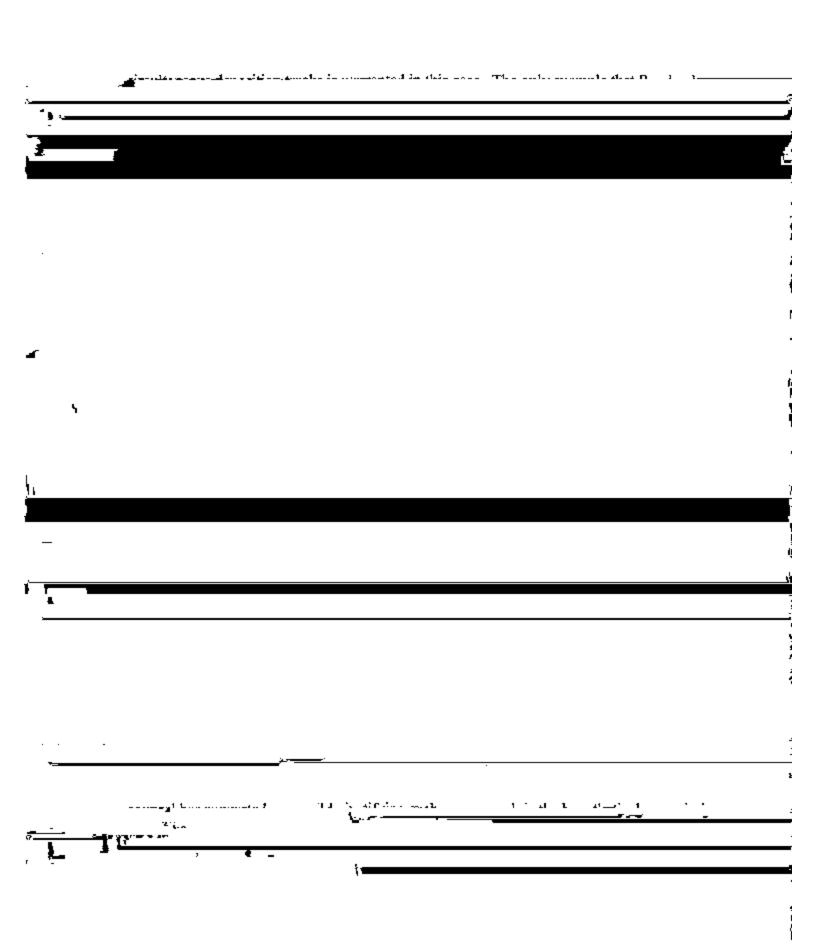






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possib	le moment the deadline for completing fact discovery – also creates incentives for counsel
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CONCLUSION

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.

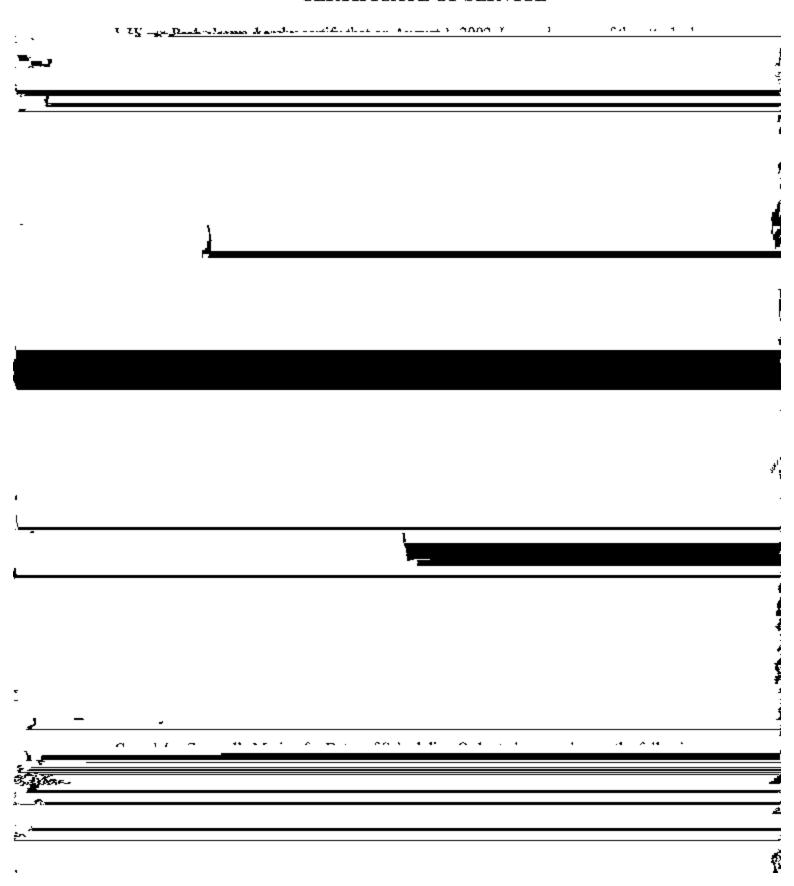
Respectfully submitted,

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

BUREAU OF COMPETITION

Washington, D.C. 20580
(202) 326-3663
(202) 326-3496 (facsimile)

CERTIFICATE OF SERVICE



UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

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

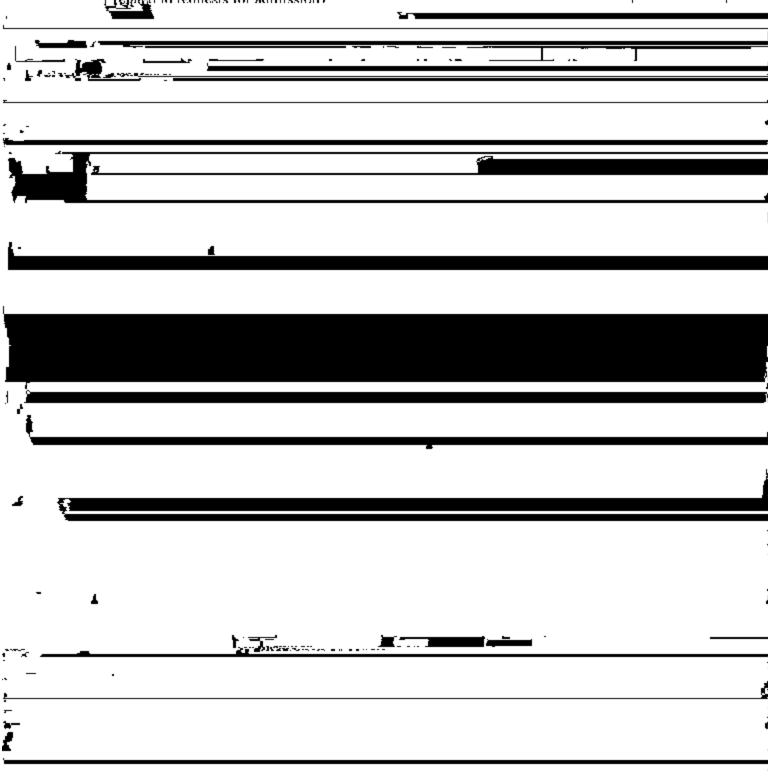
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[PROPOSED] SCHEDULING ORDER

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
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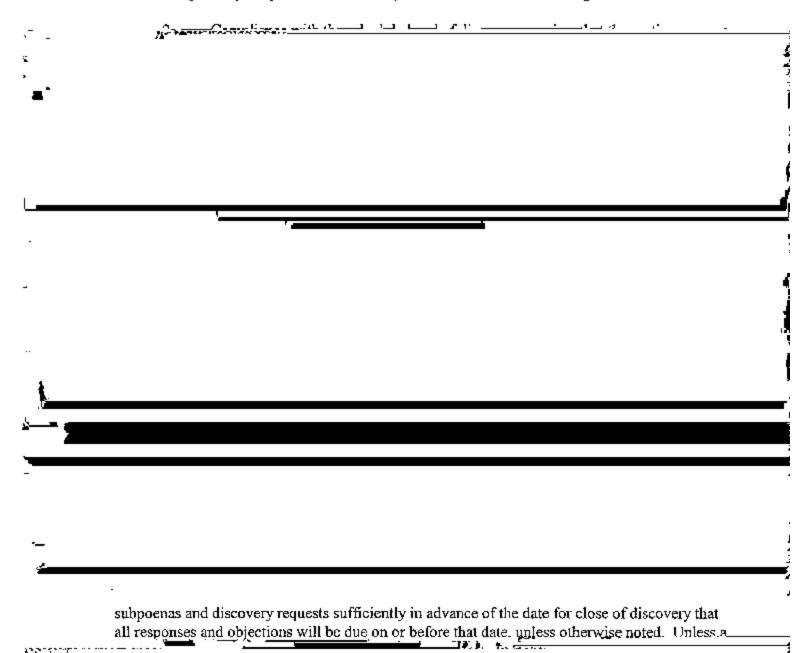
Respondent's Counsel provides preliminary rebuttal witness list (excluding experts)	11/18
Last day to file motions to compel regarding party discovery (except those related to remests for admission)	11/18



Final prehearing conference	2/21
Hearing begins	2/26

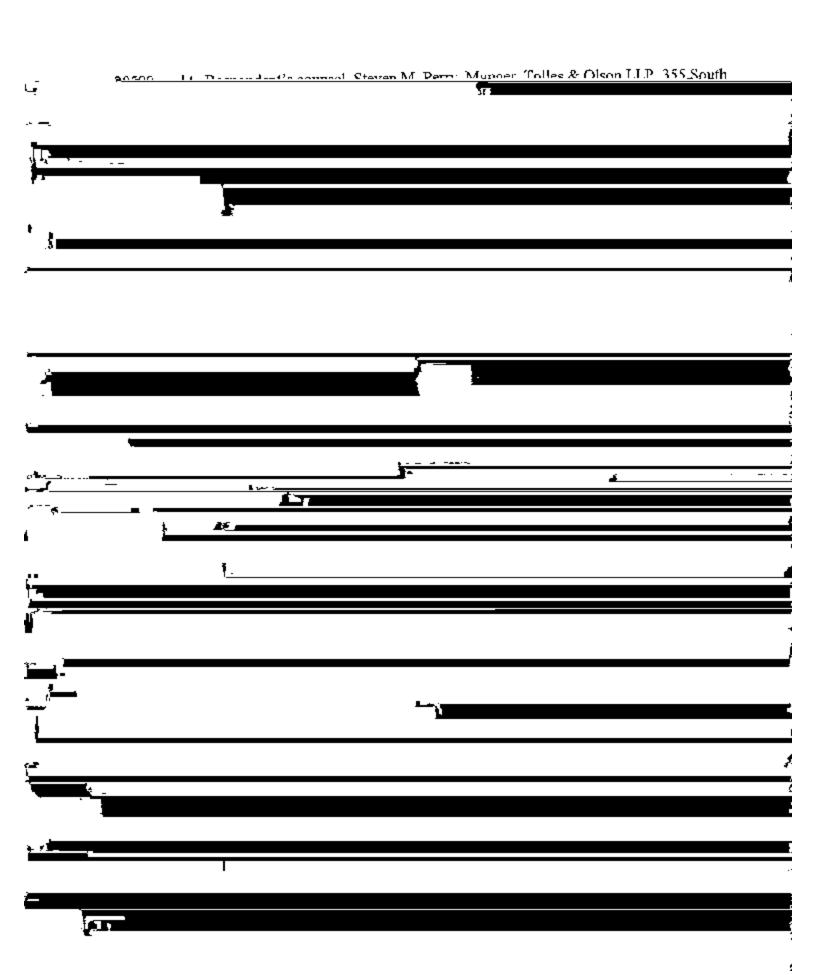
ADDITIONAL PROVISIONS

I. 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.



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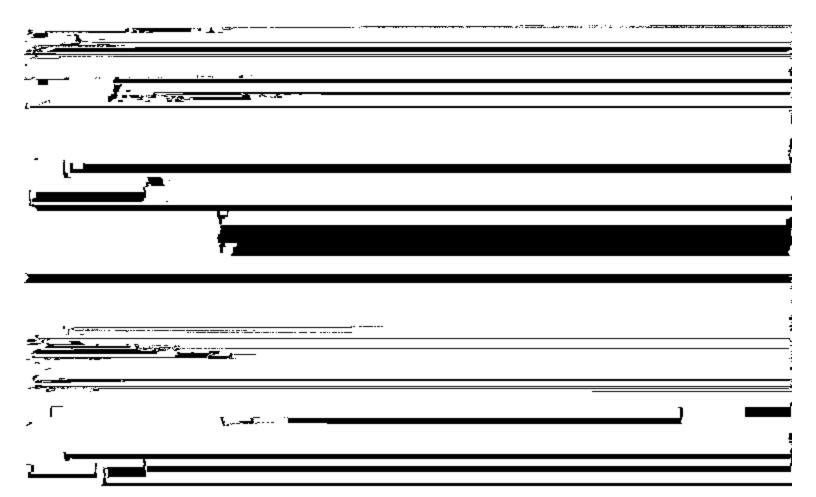
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	To:	dmelamed@wilmer.com; perrysm@mto.com
	Date: Subject:	7/27/02 2:39PM Revised scheduling order
	Doug and Ste	eve:
	yesterday, wh	ed a revised scheduling order that seeks to accommodate various points that you all raised file also retaining the aspects of our prior draft that we feel strongly about. We look forward this with you Monday morning. Also, we will want to take up sometime soon other provisions
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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 narry interrogatories (except for those related to requests	9/23	
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ixchange preliminary witness lists (excluding experts) 9/30		
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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:

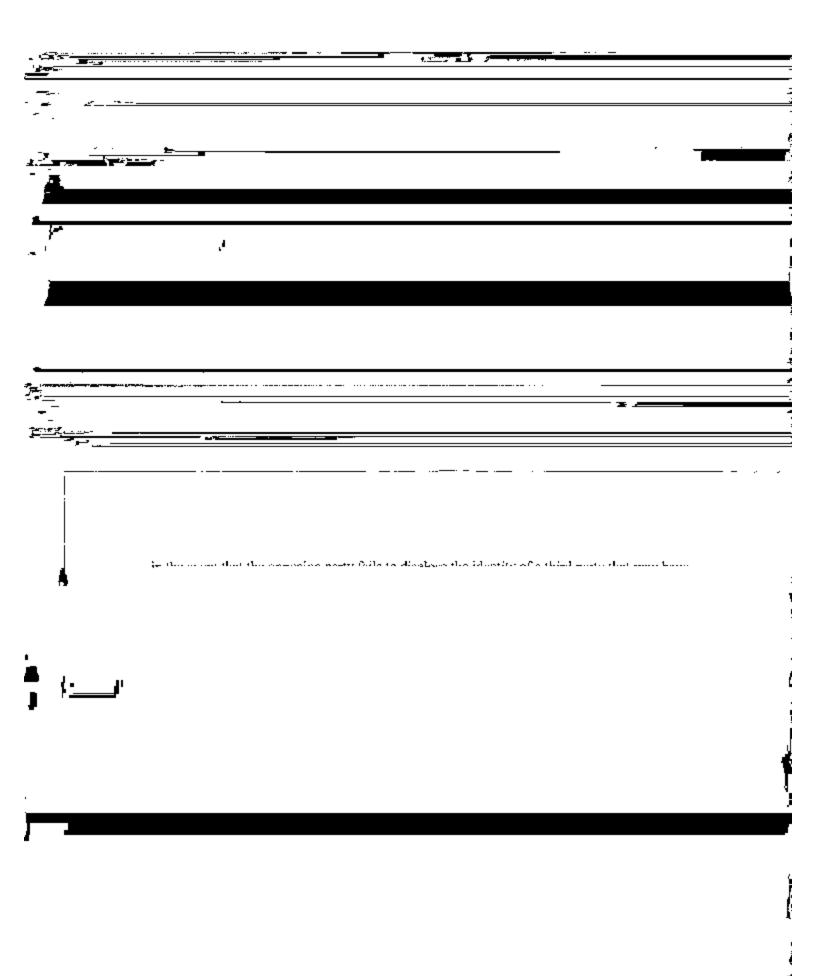
Catt, Malcolm; Oliver, Geoffrey

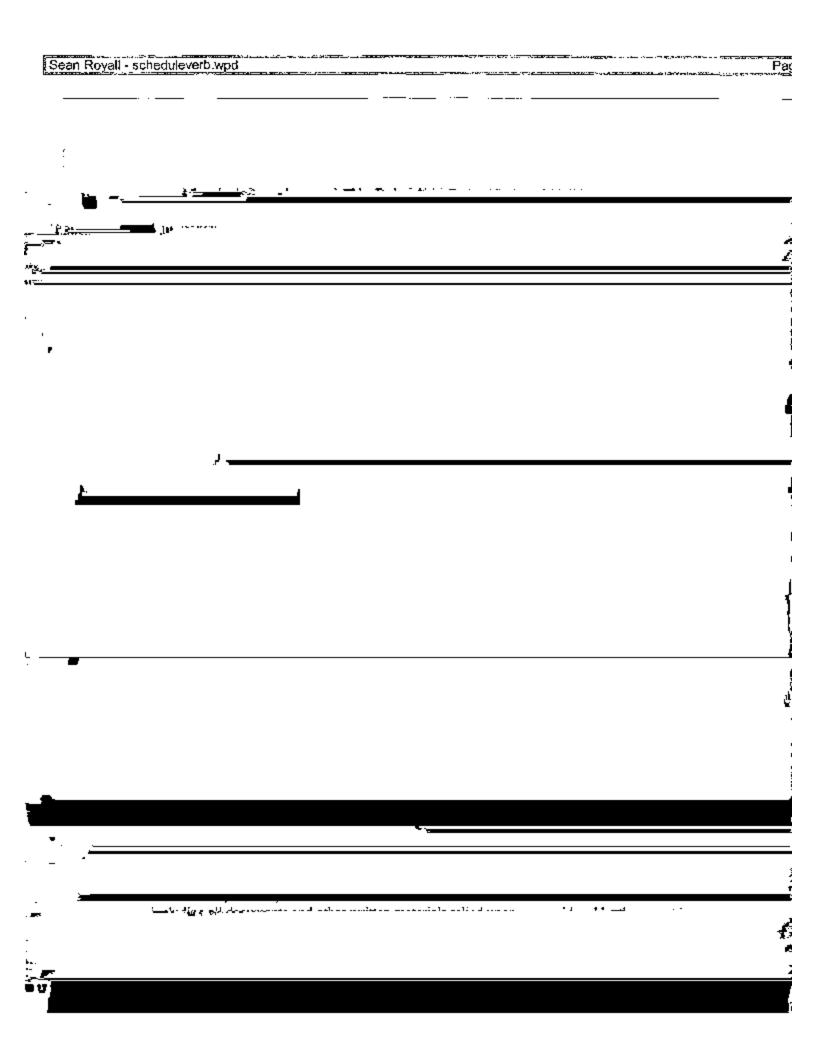
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	Administrative Law Judge	
Dated:		

From: Sean Royall

To: dmelamed@witmer.com; perrysm@mto.com

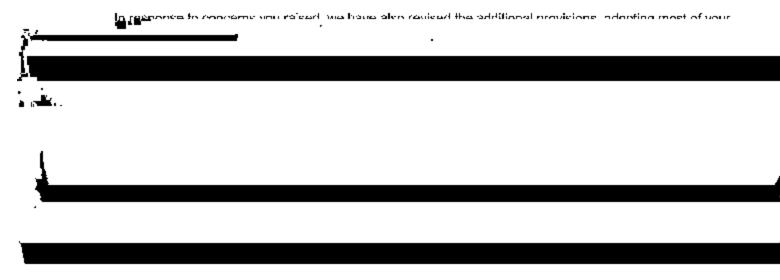
Date: 7/31/02 1:15PM

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.

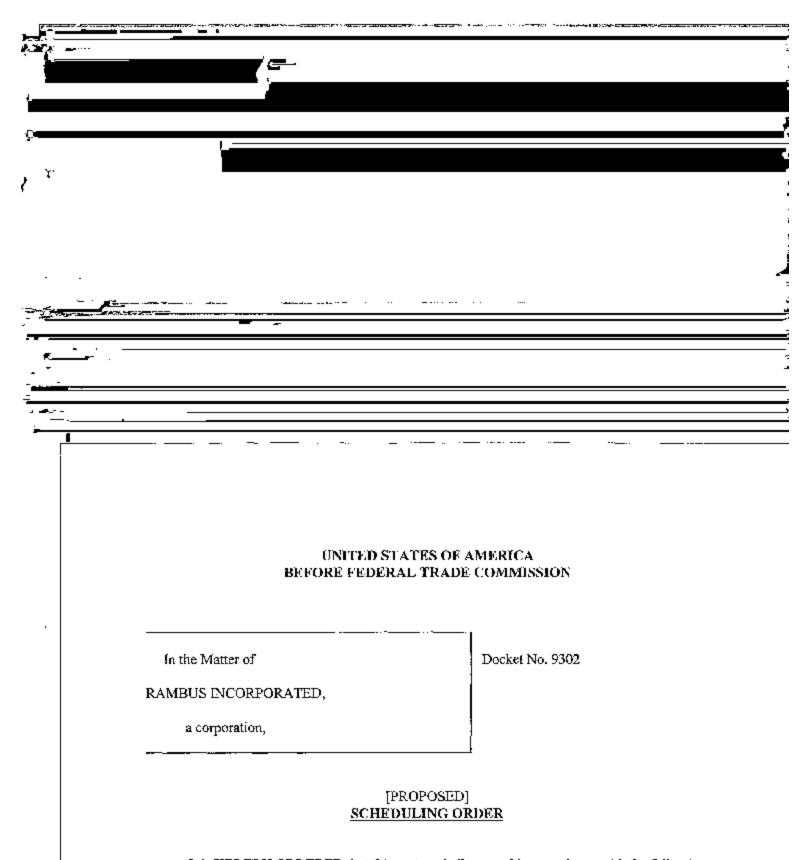
As for the schedule itself, we have made changes to accommodate your preference for staggering the identification of witnesses (both fact and expert) and the provision of expert reports. After reviewing the prior schedules approved by Judge Timony that you identified, it appeared to us that two weeks 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).



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,

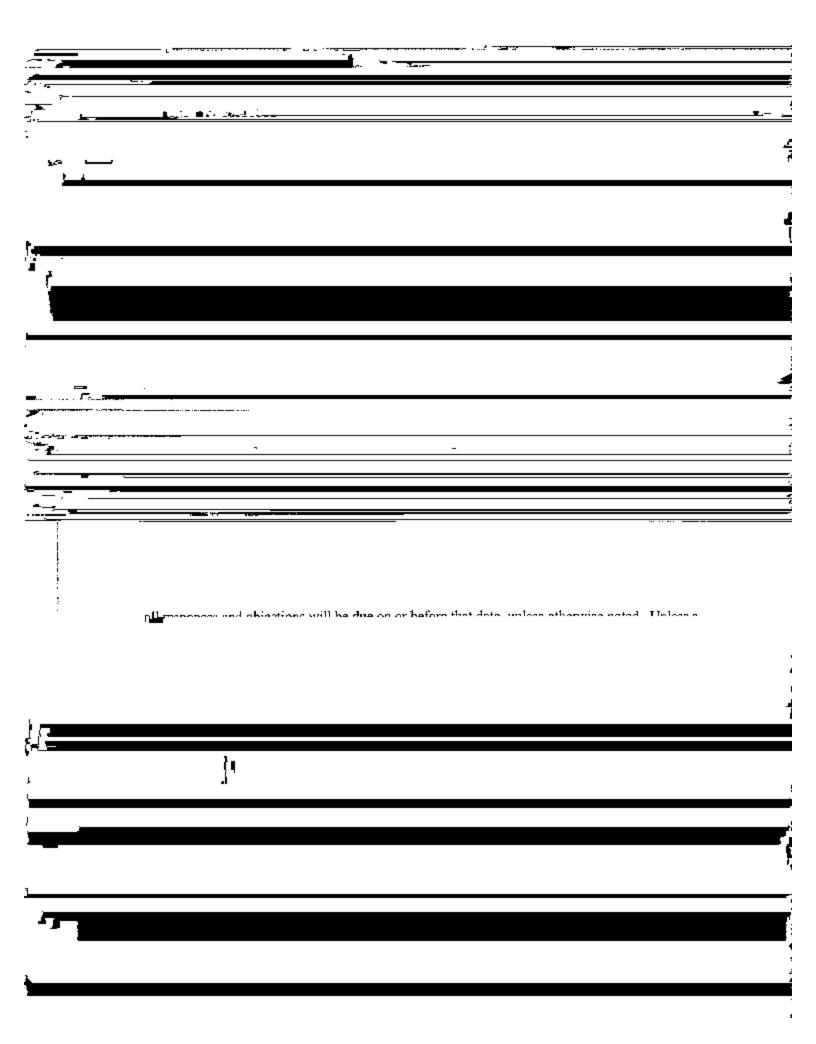


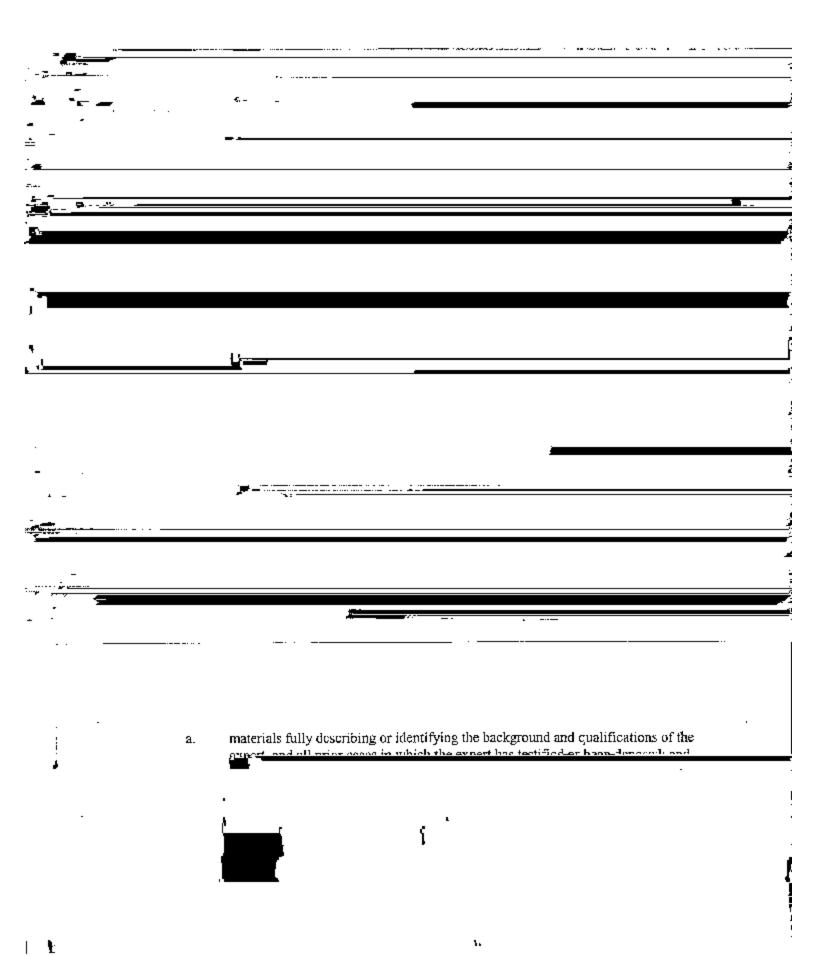
It is HEREBY ORDERED that this matter shall proceed in accordance with the following Scheduling Order:

	EVENT	DATE
Answer filled .		7/29

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Sean Ro	yall - Rambus's Proposed Schedule - revised	Pa
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	From: "Perry, Steven" <perrysm@mto.com> To: "sroyal@ftc.gov" <sroyall@ftc.gov>, "'goliver@ftc.gov" <goliver@ftc.gov>, "mcatt@ftc.gove" <mcatt@ftc.govo></mcatt@ftc.govo></goliver@ftc.gov></sroyall@ftc.gov></perrysm@mto.com>	
	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 moming. 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).	
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				7/28/02	
	Rambus's Propo	osed <u>Schedule</u>			
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	E Di a El mode de la Cita (Chia (Chi	DATE	FTC DATE	RAMBUS DATE	
	Deadline to file answer (complaint filed 6/20) Exchange initial disclosures	7/29 8/6	7/ <u>29</u> 8/6	7/29	
	Last day for issuing document requests to the parties	8/30	8/30	8/30	
	Last day for issuing party interrogatories (except for these	9/9	9/23	9/23	
	related to requests for admission)	11/13	10/28	1001	
,	Exchange of preliminary witness list (excluding experts)	11/13	10/28	10/31	
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