Before The Honorable James P. Timony
Administrative Law Judge

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

NON-PARTY HYNIX SEMICONDUCTOR INCORPORATED'S OPPOSITION TO RESPONDENT'S AMENDED APPLICATION FOR THE ISSUANCE OF A SUBPOENA *AD TESTIFICANDUM* ON DR. K.H. OH

Respondent Rambus, Inc. ("Rambus") filed an application for the issuance of a subpoena *ad testificandum* to be served on Dr. K.H. Oh, the former head of the semiconductor group at Hynix Semiconductor Incorporated ("Hynix"). Dr. Oh currently lives and resides in South Korea. On December 6, 2002, Rambus amended its application purportedly to reflect a change in Dr. Oh's U.S. travel plans. In response to that application, Hynix files this opposition.[1]

United States next month to give deposition testimony in connection with this proceeding. Despite his cooperation, Rambus now seeks to punish Dr. Oh by serving him with a subpoena while in the United States solely to give testimony requiring him to travel back the United States for trial. The Administrative Law Judge however, should not permit Rambus to impose such an unreasonable burden on Dr. Oh. Moreover, there is an abundance of caselaw

[1] While Dr. Oh is no longer employed by Hynix, Hynix files this objection in order to protect its own interest in assuring Dr. Oh's continued willingness to travel to the United States for his deposition in this proceeding next month. Dr. Oh is also scheduled to give deposition testimony at that time in connection with a private lawsuit that Hynix has filed against Rambus in the United States District Court for the Northern District of California, Hynix

immunizing witnesses who voluntarily enter a jurisdiction in aid of a pending action from service of process. Based on this legal precedent, as well as fundamental notions of fairness to Dr. Oh, Rambus' motion should be denied.

ARGUMENT

K. H. Oh is the former chief executive of the semiconductor group of Hyundai Electronics (now known as Hynix). Dr. Oh is no longer employed by Hyundai Hynix affiliate. Notwithstanding the fact that Dr. Oh does not travel to the United States on a regular basis, he voluntarily agreed to come to the United States and give deposition testimony in order to accommodate the Federal Trade Commission and Rambus. Dr. Oh is also cooperating and get his testimony. In return for his cooperation, Rambus now seeks to punish Dr. Oh by serving him with a subpoena while in the United States solely to give testimony requiring him to travel back the United States for trial.

There is a longstanding policy that a person who comes into the jurisdiction in aid of litigation should be immune from service of process. The rule is clearly stated in Stewart v. greater weight of authority, is that suitors, as well as witnesses, coming from another state or jurisdiction, are exempt from the service of civil process while in attendance upon court, and during a reasonable time in coming and going." See also Page Co. v. Macdonald, 261 U.S. 446, 448 (1923); Shapiro & Son Curtain Corp. v. Glass, 348 F.2d 460, 462-62 (2d Cir. 1965) (quashing a subpoena served on a British citizen while in the United States to testify at trial based upon immunity); American Centennial Insurance Co., 901 F. Supp. 892, 895-97 (D.N.J.

Semiconductor, Inc. et al. v. Rambus, Inc., CV 00-20905 (U.S. Dist. N.D. Cal.). As a result, Hynix wants to ensure that Dr. Oh remains willing to provide that deposition next month.

1995) (granting a Panamanian citizen's motion to dismiss an action for lack of personal jurisdiction based upon immunity from service of process while in New Jersey for a deposition).

The Second Circuit has recognized the deep-rooted history of this immunity, as well as the sound public policy underlying it:

> The rule giving certain witnesses, parties and attorneys in civil [redacted] appearing voluntarily rather than under compulsion. In any event nearly two centuries are quite long enough -- particularly in light of Stewart v. Ramsay, 1916, 242 U.S. 128, 130, where the Court cited the oft-quoted statement in Parker v. Hotchkiss, C.C.E.D.Pa. [redacted] Supp. 700, 701 (D.C. Mass. 1948), the usual rational of the immunity, namely 'to encourage voluntary attendance of suitors and litigants who might stay away if they feared service of process in other litigation' may historically inaccurate as shown by Judge Hand, it is nevertheless a good one.

In re Equitable Plan, 277 F.2d 319, 320 (2d Cir. 1960).

While this rule developed in the context of trial appearances, the rule is plainly [redacted] testimony could only be obtained by service of a subpoena for his testimony in Korea. This would be far more expensive and cumbersome for all concerned. On the other hand, Rambus suffers no cognizable prejudice from denial of the subpoena. It can obtain any and all testimony [redacted]

CONCLUSION

For all the foregoing reasons, Rambus' motion for issuance of a subpoena on Dr. K.H. Oh should be denied.

Dated: December 13, 2002

By: _____

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CERTIFICATE OF SERVICE

It is hereby certified that copies of the foregoing NON-PARTY HYNIX SEMICONDUCTOR INCORPORATED'S OPPOSITION TO RESPONDENT'S AMENDED APPLICATION FOR THE ISSUANCE OF A SUBPOENA *AD TESTIFICANDUM* ON DR. R.H. OH were served this 13th day of December, 2002, on the following:

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