

In the Matter of
RAMBUS INCORPORATED,
a corporation,

DOCKET NO. 9302

**ORDER DENYING COMPLAINT COUNSEL'S AMENDED
APPLICATION TO PLACE DOCUMENTS ON THE PUBLIC RECORD**

I.

On January 29, 2003, Complaint Counsel filed its Amended Application to Place on the Public Record Documents Attached as Exhibits to Complaint Counsel's Motion for Default Judgment ("Application"). The January 29, 2003 Application replaces Complaint Counsel's

II.

Judgment Motion"), included as exhibits documents that Respondent had designated as confidential pursuant to the Protective Order entered in this case on August 5, 2002 ("Protective

two versions of its offer: a confidential version and a public version which redacted information designated as confidential. 16 C.F.R. § 3.22(b). Complaint Counsel now seeks to place on the

...should be handled under the procedures for protective orders, see Rule 3.31(d), and should not be confused with *in camera* matters.” *Id.*

Rule 3.22(b) states:

If a party includes in a motion information that has been granted *in*

protections pursuant to a protective order, the party shall file two versions of the motion in accordance with the procedures set forth in § 3.45(e).

into evidence.” Rules of Practice Federal Trade Commission 66 Fed. Reg. 17622-17625

matter, should be handled under the procedures for protective orders, *see* Rule 3.31(d), and should not be confused with *in camera* matters.” *Id.*

The Protective Order entered in this case makes the same distinction between evidence submitted in connection with motions and evidence introduced at trial. Paragraph 17 of the Protective Order states that if confidential material “is contained in any pleading, motion, exhibit or other paper” filed with the Secretary, it must be filed under seal and “shall remain under seal until further order of the Administrative Law Judge.” Paragraph 18, in contrast, governs material to be “introduce[d] as evidence at trial,” and states that with respect to such material a party must apply for an *in camera* order pursuant to 16 C.F.R. § 2.45(b). Thus, the Protective Order itself

introduced into evidence at trial

The Protective Order contains specific provisions for challenging confidentiality designations. Paragraph 11. It appears that Complaint Counsel has not complied with these provisions. Rambus maintains that each of the documents it has designated as confidential meet the standard for confidential material as defined in the Protective Order. See Protective Order Paragraph 1(n) (defining confidential material as information "which is not generally known and which the Producing Party would not normally reveal to third parties or would normally require

public commercial information, the disclosure of which to Respondents or Third Parties would

III.


Rambus represents that it withdraws its confidentiality designations with respect to deposition transcripts that Complaint Counsel has selected to reflect only the portions cited in

01-07-08 100, 101, and 102. Complaint Counsel requests its public version of its Default

In addition, Rambus states that it may be willing to withdraw its confidentiality designations with respect to exhibits 22, 40, 41, 42, 46, 47, 48, 50, 51, 52, 56, 61, 60, 71, 07-09, 102, 106, 107, and 100

The parties are to meet and confer after Rambus has had an opportunity to review redacted portions of these exhibits. If Rambus determines to withdraw its confidentiality

designations as to the redacted exhibits, Complaint Counsel may refile its public version of its Default Judgment Motion to include any such redacted exhibits.


Administrative Law Judge

Dated: February 26, 2003