

the extent that they call for the disclosure of material protected by one or more of the following privileges:

- a. Attorney-client privilege;
- b. Work product privilege;
- c. Deliberative process privilege; and
- d. Law enforcement investigatory records privilege.

2. To the extent that Complaint Counsel responds to specific requests to which it has objected, Complaint Counsel reserves the right to maintain such objections with respect to any additional information and such objections are not waived by the furnishing of such information.

3. Complaint Counsel does not, by any response to any request, admit to the validity of any legal or factual contention asserted in the text of any request.

4. Complaint Counsel objects to each request to the extent that each calls for information that is not in the possession, custody, or control of Complaint Counsel.

5. To the extent that any request quotes from a document or references a statement and solicits an admission that the quote or statement is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay.

6. Complaint Counsel objects generally because no definitions were provided for any terms referenced in the requests and many of the terms are open to widely different interpretations, making many of the requests inherently vague and ambiguous.

RESPONSES AND SPECIFIC OBJECTIONS TO
REQUESTS FOR ADMISSIONS

Complaint Counsel provides the following responses:

REQUEST FOR ADMISSION NO. 1:

Admit that JEDEC's Manual of Organization and Procedure JEP 21-H was first published in 1988. [JDC 013328-47].

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

The referenced document does not establish the truth of the assertion on which the admission is sought. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 2:

Admit that JEDEC's Manual of Organization and Procedure JEP 21-H contains no reference to the disclosure by JEDEC members of patents. [JDC 013328].

RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Complaint Counsel admits that the referenced document contains no express reference to "disclosure by JEDEC members of patents." The referenced document does, however, contain references to the EIA Legal Guidelines, which in turn do discuss patent issues.

REQUEST FOR ADMISSION NO. 3:

Admit that JEDEC's Manual of Organization and Procedure JEP 21-H contains no reference to the disclosure by JEDEC members of patent applications. [JDC 013328].

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Complaint Counsel admits that the referenced document does not, in such words, refer to the requirement of JEDEC members to disclose "patent applications." However, there is evidence that the term "patent," as used in the referenced document, was understood by JEDEC members in this time period to encompass both issued and pending patents. On this basis, Complaint Counsel does not admit, and indeed denies, that the referenced document "contains no

reference to the disclosure by JEDEC members of patent applications.”

REQUEST FOR ADMISSION NO. 4:

Admit that Rambus and Hewlett-Packard signed a Non-Disclosure Agreement in or about January 1990. [R 196023; RF 0137623].

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Complaint Counsel admits that the referenced documents appear to evidence the signing of a non-disclosure agreement between Rambus and Hewlett-Packard in January 1990.

REQUEST FOR ADMISSION NO. 5:

~~Admission Agreement signed by Rambus and Hewlett-Packard on 1/15/90. [R 196023; RF 0137623].~~

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Complaint Counsel admits that the referenced documents appear to evidence the signing of a non-disclosure agreement between Rambus and Micron Technology in March 1990.

REQUEST FOR ADMISSION NO. 8:

Admit that Rambus and Toshiba signed a Semiconductor Technology License Agreement in or about April 1990. [R 26994; WGSR 006832; RF 0140403].

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Complaint Counsel admits that two of the referenced documents appear to evidence the signing of a Semiconductor Technology License Agreement between Rambus and Toshiba in 1990. The other referenced document refers to a nondisclosure agreement between Rambus and Toshiba, signed April 25, 1990.

REQUEST FOR ADMISSION NO. 9:

Admit that Rambus and Motorola signed a Non-Disclosure Agreement in or about April 1990. [R 196023; RF 0138895].

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Complaint Counsel admits that the referenced documents appear to evidence the signing of a non-disclosure agreement between Rambus and Motorola in April 1990.

REQUEST FOR ADMISSION NO. 10:

Admit that Rambus and NEC entered into a Non-Disclosure Agreement in or about April 1990. [PTX 117].

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

The referenced document refers to a Rambus-NEC non-disclosure agreement effective in April 1990, but does not directly evidence the existence of such an agreement, nor is Complaint

Counsel aware of independent evidence of such an agreement. For this reason, Complaint
Counsel lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 14:

Admit that Rambus and Hitachi signed a Non-Disclosure Agreement in or about August 1990. [PTX 117; RF 0137666].

RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Complaint Counsel admits that the referenced documents appear to evidence the signing of a non-disclosure agreement between Rambus and Hitachi in August 1990.

REQUEST FOR ADMISSION NO. 15:

Admit that Rambus and Sony signed a Non-Disclosure Agreement in or about September 1990. [PTX 117].

RESPONSE TO REQUEST FOR ADMISSION NO. 15:

The referenced document refers to a Rambus-Sony non-disclosure agreement effective in September 1990, but does not directly evidence the existence of such an agreement, nor is Complaint Counsel aware of independent evidence of such an agreement. For this reason, Complaint Counsel lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 16:

Admit that Rambus and Toshiba entered into a technology license in or about October 1990. [PTX 267].

RESPONSE TO REQUEST FOR ADMISSION NO. 16:

The referenced document refers to various license agreements between Rambus and Toshiba, none of which appear to have been entered into on or about October 1990, nor is Complaint Counsel aware of independent evidence of such an agreement entered in that time period. Thus, Complaint Counsel lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 17:

Admit that Rambus and Texas Instruments entered into a Non-Disclosure Agreement in or about October 1990. [RF 0140248; PTX 117].

RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Complaint Counsel admits that the referenced documents appear to evidence the signing of a non-disclosure agreement between Rambus and Texas Instruments effective October 1990.

REQUEST FOR ADMISSION NO. 18:

Admit that Rambus and Fujitsu entered into a Technology License Agreement in or about October 1990. [R 24137; WSGR 006896].

RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Complaint Counsel admits that the referenced documents appear to evidence the signing of a Technology License Agreement between Rambus and Fujitsu in October 1990.

REQUEST FOR ADMISSION NO. 19:

Admit that Rambus and Hewlett-Packard signed a Non-Disclosure Agreement in or about January 1991. [R 69918].

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

The referenced document refers to a Confidential Disclosure Agreement between Rambus and Hewlett-Packard, but the effective date given is January *****. Complaint Counsel is not aware of independent evidence of such an agreement being entered into in or about January 1991. Thus, Complaint Counsel lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 20:

Admit that Rambus and NEC signed a Semiconductor Technology License Agreement in or about July 1991. [R 108454].

RESPONSE TO REQUEST FOR ADMISSION NO. 20:

Complaint Counsel admits that the referenced document appears to evidence the signing of a Semiconductor Technology License Agreement between Rambus and NEC in July 1991.

REQUEST FOR ADMISSION NO. 21:

REDACTED

RESPONSE TO REQUEST FOR ADMISSION NO. 21:

REQUEST FOR ADMISSION NO. 22:

REDACTED.

RESPONSE TO REQUEST FOR ADMISSION NO. 22:

REQUEST FOR ADMISSION NO. 23:

REDACTED.

RESPONSE TO REQUEST FOR ADMISSION NO. 23:

REQUEST FOR ADMISSION NO. 24:

Admit that Rambus's International Patent Application number WO 91/16680 became publicly available in or about October 1991. [MR 0054322; I 243728].

RESPONSE TO REQUEST FOR ADMISSION NO. 24:

Complaint Counsel admits that, based on the information contained in the referenced documents, it would appear that a copy of Rambus's International Patent Application number

admit nor deny the request.

REQUEST FOR ADMISSION NO. 25:

Admit that IBM obtained a copy of Rambus' publicly available International Patent Application on or prior to December 16, 1991. [R 205153].

RESPONSE TO REQUEST FOR ADMISSION NO. 25:

Complaint Counsel admits that, based on the information contained in the referenced document, it would appear that a copy of the referenced Rambus International Patent Application may have been obtained by an IBM employee on or about December 16, 1991. However, Complaint Counsel lacks sufficient information to confirm this fact, and on this basis can neither admit nor deny the request.

REQUEST FOR ADMISSION NO. 26:

Admit that IBM reviewed Rambus' International Patent Application in 1991 and 1992 to look for technical contents that could be of interest to IBM. [R 205153].

RESPONSE TO REQUEST FOR ADMISSION NO. 26:

The referenced document does not establish the truth of the assertion on which an admission is sought. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 27:

Admit that after reviewing Rambus's International Patent Application, IBM offered to pay Rambus \$10,000,000 to license the technology referenced therein.

RESPONSE TO REQUEST FOR ADMISSION NO. 27:

Complaint Counsel lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 28:

REQUEST SSI99], 42.3 subcommittee met in Seattle, Washington on or about February

*****~~27, 1992~~: [JDC 001099]:***** **TD 0.32121.5 - 0.084 468r abo**

REQUEST SSI99].

02098DC

the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be a ***** by N. Wirth and W. Meyer (April 30, 1992) and that the request correctly quotes a portion of the language from the referenced document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel further notes that the referenced document purports to be an English-language translation of a document originally written in German. Complaint Counsel does not admit that, and has no basis to know whether, the referenced translation is accurate. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 33:

Admit that Siemens' JEDEC 42.3 subcommittee representative Willibald Meyer and Siemens' employee N. Wirth wrote on or about April 30, 1992 that "NEC (Rambus licensee) was the first to suggest a leaner "public domain" version based on this: maintain a synchronous control, 2 banks, 4-fold internal data bus, 4 word register at the data output, and possibly LOW level interface (similar to GTL) from the RAMBUS while leaving off the proprietary RAMBUS control protocol." [I 252164].

RESPONSE TO REQUEST FOR ADMISSION NO. 33:

To the extent this request seeks an admission that the quoted statement is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be a ***** ***** by N. Wirth and W. Meyer (April 30, 1992), states in part, "NEC (Rambus license *****) was the first to suggest a leaner 'public domain' version based on this: maintain a synchronous control, 2 banks, 4-fold internal data bus, 4 word register at the data output, and possibly LOW level interface (similar to GTL) from the

RAMBUS while leaving off the proprietary RAMBUS control protocol.” [Emphasis added to correct Respondent’s omission of a word.] However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel further notes that the referenced document purports to be an English-language translation of a document originally written in German. Complaint Counsel does not admit that, and has no basis to know whether, the referenced translation is accurate. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 34:

Admit that Siemens’ JEDEC 42.3 subcommittee representative Willibald Meyer and Siemens’ employee N. Wirth wrote on or about April 30, 1992 that “it has become clear that a RAMBUS memory can easily be converted into a SDRAM (1 or 2 banks) or conventional DRAM.” [I 252164].

RESPONSE TO REQUEST FOR ADMISSION NO. 34:

To the extent this request seeks an admission that the quoted statement is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be a *****
***** by N. Wirth and W. Meyer (April 30, 1992), and that the request correctly quotes a portion of the language from the referenced document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel further notes that the referenced document purports to be an English-language translation of a document originally written in German. Complaint Counsel does not admit that, and has no basis to know 1 or 2 banks) or

REQUEST FOR ADMISSION NO. 35:

Admit that on or about May 6, 1992, Siemens' JEDEC 42.3 subcommittee representative Willibald Meyer prepared a chart comparing the "pros" and "cons" of synchronous DRAMs, cached DRAMs and Rambus DRAMs, and that one of the two "cons" listed with respect to synchronous DRAMs was that "2-bank sync may fall under Rambus patents." [I 252065].

RESPONSE TO REQUEST FOR ADMISSION NO. 35:

To the extent this request seeks an admission that the quoted statement is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be a DRAM comparison chart and that the request correctly quotes a portion of the language from the referenced document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel further notes that the referenced document purports to be an English-language translation of a document originally written in German. Complaint Counsel does not admit that, and has no basis to know whether, the referenced translation is accurate. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 36:

Admit that on or about May 6, 1992, the JEDEC 42.3 subcommittee met in New Orleans, Louisiana.

RESPONSE TO REQUEST FOR ADMISSION NO. 36:

Complaint Counsel admits this request.

REQUEST FOR ADMISSION NO. 37:

Admit that during the May 6, 1992 New Orleans meeting, IBM representative Gordon Kelley asked Richard Crisp if he would care to comment regarding possible Rambus patent

claims with respect to 2 bank synchronous DRAM designs, and Mr. Crisp declined to comment.
[R 200474].

RESPONSE TO REQUEST FOR ADMISSION NO. 37:

REQUEST FOR ADMISSION NO. 39:

Admit that the facts set forth in Request For Admission No. 38 were well known to JEDEC 42.3 representatives between 1992 and 1996.

RESPONSE TO REQUEST FOR ADMISSION NO. 39:

Complaint Counsel restates here the same objections stated in response to RFA No. 38. Without further information as to the assumed facts applicable to this hypothetical, Complaint Counsel can neither admit nor deny this request.

REQUEST FOR ADMISSION NO. 40:

Counsel further admits that, on or about May 6, 1992, *****

*****.

written in German. Complaint Counsel does not admit that, and has no basis to know whether, the referenced translation is accurate. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 44:

Admit that at the May 1992 JEDEC 42.3 subcommittee meeting in New Orleans, subcommittee chairman Jim Townsend presented viewgraphs that quoted in part, as follows, from EIA Publication EP-3-.084 Tw (.08he C Jim Tow no Secretaries:0 0 TD 0 Tc 0 Tw (44) Tj 36 -24 54 TD c 072 Tw (44) Tj ethen 72 594 189TD 0470 TD34 TD0TD 0 269.25 5220472-0.0.

subcommittee state in part, “Mr. McGhee also showed a copy of the new ANSI patent policy implementation guide (See Attachment B).” However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself.

REQUEST FOR ADMISSION NO. 46:

Admit that at and after the May 1992 JEDEC 42.3 subcommittee meeting, the “Patent Tracking List” prepared by the subcommittee chairman listed a Motorola “sync DRAM” patent. [various minutes].

RESPONSE TO REQUEST FOR ADMISSION NO. 46:

Complaint Counsel admits that the minutes of the May 1992 meeting of the JEDEC 42.3 subcommittee state in part, “A presentation was made Chairman Townsend on patents (See Attachment A).” Complaint Counsel further admits that a “Patent Tracking List” containing the same language was shown at other, later 42.3 subcommittee meetings. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 47:

Admit that on or about June 9, 1992, IBM’s JEDEC 42.3 subcommittee representative prepared a chart entitled “COMPARE ALTEP1j Tc 0.2432 Tw8VEMQei7utu25 High Per eithocu, High TD -0.

***** and that the request correctly quotes a portion of the language from the referenced document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel further notes that the referenced ***** document purports, in part, to be an English-language translation of a document originally written in German. Complaint Counsel does not admit that, and has no basis to know whether, the referenced translation is accurate. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 48:

REDACTED.

RESPONSE TO REQUEST FOR ADMISSION NO. 48:

REQUEST FOR ADMISSION NO. 49:

Admit that in or about September 1992, Siemens' JEDEC 42.3 subcommittee representative Willibald Meyer prepared a memo or chart that stated in part that Rambus was "[a] deadly menace to the established computer industry." [I 247957].

RESPONSE TO REQUEST FOR ADMISSION NO. 49:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be presentation charts and the request correctly quotes a portion of the language from the referenced document, which appears to have been drafted by Willibald Meyer. However, Complaint Counsel submits

that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 50:

Admit that on or about October 12, 1992, JEDEC 42.3 subcommittee chairman Jim Townsend circulated to various JEDEC representatives an article from the October 1992 issue of IEEE Spectrum magazine entitled “Don’t Lose Your Patent Rights,” which article stated in part as follows:

“KEEP IT UNDER YOUR HAT. In the United States, if an invention is publicly disclosed more than one year before a patent application is filed, one is not entitled to the patent – the invention is considered to be in the public domain.

* * *

Moreover, premature disclosure can severely jeopardize non

deny this request.

REQUEST FOR ADMISSION NO. 51:

Admit that prior to the adoption of the JEDEC SDRAM standard in 1993, Rambus had no claims in any pending patent application that, if issued, would have necessarily been infringed by the manufacture or use of any device manufactured in accordance with the JEDEC SDRAM standard.

RESPONSE TO REQUEST FOR ADMISSION NO. 51:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, the phrases “would have necessarily been infringed” and “the JEDEC SDRAM standard” are not defined. Subject to this objection, and understanding the latter phrase to refer to the SDRAM standard adopted by JEDEC in 1993, Complaint Counsel states that it lacks sufficient information to either admit or deny this request, as stated. For purposes of this litigation, however, Complaint Counsel would consider entering into an appropriate stipulation on this subject.

REQUEST FOR ADMISSION NO. 52:

Admit that between 1991 and 1996, Rambus’s outside counsel repeatedly advised Rambus that its patent applications were confidential and should not be disclosed.

RESPONSE TO REQUEST FOR ADMISSION NO. 52:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, the phrases “outside counsel,” “repeatedly,” and “patent applications” are not defined. Subject to this objection, Complaint Counsel states that it lacks sufficient information to either admit or deny this request, as stated.

REQUEST FOR ADMISSION NO. 53:

Admit that on or about December 9, 1992, Motorola took the position that it would only agree to the JEDEC patent policy with respect to those JEDEC standards which were “voted for by Motorola for standardization.” [JDC 001660].

RESPONSE TO REQUEST FOR ADMISSION NO. 53:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, the term “JEDEC patent policy” is not defined. To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to these objections, Complaint Counsel admits that the referenced document appears to be the May 19-20, 1993 minutes for JC 42.3 subcommittee meeting no. 67 and that the request correctly quotes a portion of the language from the referenced document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 54:

Admit that Motorola’s position as stated in request no. 53 was consistent with the JEDEC patent policy in effect at the time.

RESPONSE TO REQUEST FOR ADMISSION NO. 54:

Complaint Counsel reasserts the objections stated in response to RFA No. 53. Subject to these objections, Complaint Counsel states that it lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 55:

Admit that at the March 3, 1993 JEDEC 42.3 subcommittee meeting in Scottsdale, Arizona, an IBM representative stated that IBM’s “view has been to ignore patent disclosure rule

because their attorneys have advised them that if they do then a listing may be construed as complete.” [JDC 001538].

RESPONSE TO REQUEST FOR ADMISSION NO. 55:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be the meeting minutes from the March 3, 1993 JEDEC 42.3 subcommittee meeting in Scottsdale, Arizona and the request correctly quotes a portion of the language from the referenced document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 56:

Admit that IBM’s position as stated in request no. 55 was consistent with the JEDEC patent policy in effect at the time.

RESPONSE TO REQUEST FOR ADMISSION NO. 56:

Complaint Counsel reasserts the objections stated in response to RFA No. 55. Complaint Counsel also objects to this request as vague and ambiguous because, among other things, it provides no definition for the term “JEDEC patent policy.” Subject to these objections, Complaint Counsel otherwise states that it lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 57:

Admit that at the May 19, 1993 JEDEC 42.3 subcommittee meeting in Chicago, the committee approved SDRAM standard 21-C after it learned of a Hitachi patent (no. 5,083,296) that in part “covers the basic specification for SDRAM.” [JDC 001622].

RESPONSE TO REQUEST FOR ADMISSION NO. 57:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be the May 1993 JEDEC 42.3 subcommittee meeting minutes and that the request correctly quotes a portion of the language from the referenced document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 58:

Admit that IBM stated in or about August 1993 that it would not discuss, confirm, or deny its patent rights with respect to ball grid assays at JEDEC meetings and that it was instead the responsibility of DRAM manufacturers to evaluate those rights. [JDC 013782].

RESPONSE TO REQUEST FOR ADMISSION NO. 58:

To the extent this request seeks an admission that the language in the referenced document is evidence of the truth of the matter asserted, and other relevant language regarding responsibility of DRAM makers, Complaint Counsel objects on grounds of hearsay. Complaint Counsel also objects to this request as vague and ambiguous because, among other things, it provides no definition for the terms “patent rights,” ball grid assays,” and “JEDEC meetings.” Subject to these objections, Complaint Counsel admits that the referenced document appears to be a *****

***** . However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for

itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 59:

Admit that IBM's position as stated in request no. 58 was consistent with the JEDEC patent policy in effect at the time.

RESPONSE TO REQUEST FOR ADMISSION NO. 59:

Complaint Counsel reasserts the objections stated in response to RFA No. 58. Subject to these objections, Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 60:

Admit that in September 1993, the United States Patent and Trademark Office issued U.S. Patent No. 5,243,703 (hereinafter "the '703 Patent") to Rambus. [R 12644].

RESPONSE TO REQUEST FOR ADMISSION NO. 60:

Complaint Counsel admits this request.

REQUEST FOR ADMISSION NO. 61:

Admit that Complaint Counsel makes no claim in this matter that the '703 Patent is invalid.

RESPONSE TO REQUEST FOR ADMISSION NO. 61:

Complaint Counsel states that liability in this case does not depend on the validity of the claims in the '703 patent and admits that Complaint Counsel makes no direct contentions on the issue of validity or invalidity of this patent.

REQUEST FOR ADMISSION NO. 62:

Admit that the issuance of the '703 Patent was disclosed by Rambus at the September 23, 1993 JEDEC 42.3 subcommittee meeting in Boston, Massachusetts. [JDC 001684].

RESPONSE TO REQUEST FOR ADMISSION NO. 62:

Complaint Counsel lacks sufficient information to either admit or deny this request, as stated.

REQUEST FOR ADMISSION NO. 63:

Admit that after its disclosure to JEDEC, Rambus's '703 Patent appeared on Mr. Townsend's Patent Tracking List and was characterized as involving "sync clock." [JDC 001782].

RESPONSE TO REQUEST FOR ADMISSION NO. 63:

Complaint Counsel admits that Rambus's '703 was added to JEDEC's "Patent Tracking List" following the February 23, 1993 meeting of the JEDEC 42.3 subcommittee, and that the words "sync clock" were included in the "Subject" column of the "Patent Tracking List" with reference to this patent.

REQUEST FOR ADMISSION NO. 64:

Admit that after the disclosure of the '703 Patent to JEDEC, no EIA officer, representative or employee asked any questions of Rambus regarding the scope, application or validity of the '703 Patent.

RESPONSE TO REQUEST FOR ADMISSION NO. 64:

Complaint Counsel lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 65:

Admit that after the disclosure of the '703 Patent to JEDEC, no JEDEC officer,

representative or employee asked any questions of Rambus regarding the scope, application or validity of the '703 Patent.

RESPONSE TO REQUEST

REQUEST FOR ADMISSION NO. 67:

Admit that in or about March 1994, Siemens' representative to JEDEC's 42.3 subcommittee wrote a memo that stated in part that "[o]ne day all computers will (have to) be built like this, but hopefully without the royalties going to Rambus." [I 251805].

RESPONSE TO REQUEST FOR ADMISSION NO. 67:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be a memo drafted by Willibald Meyer and that the request correctly quotes a portion of the language from the referenced document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel further notes that the referenced ***** document purports to be an English-language translation of a document originally written in German. Complaint Counsel does not admit that, and has no basis to know whether, the referenced translation is accurate. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 68:

Admit that in or about August 1994, Siemens' JEDEC 42.3 subcommittee representative Willibald Meyer sent a memorandum entitled "IP Rights vs Memory Derivatives" that referenced Rambus's '703 Patent next to "SDRAM." [PTX883].

RESPONSE TO REQUEST FOR ADMISSION NO. 68:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be a portion of the language from the referenced document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which

Subject to these objections, Complaint Counsel

RESPONSE TO REQUEST FOR ADMISSION NO. 73:

The referenced documents refer to the May 24, 1995 New Orleans meeting. However, neither document supports the request. Thus, Complaint Counsel lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 74:

Admit that on or about June 9, 1995, Rambus JEDEC representative Richard Crisp informed Hewlett-Packard JEDEC representative Hans Wiggers that “RamLink has numerous patent issues associated with it,” and Mr. Wiggers forwarded Crisp’s comment to, among others,

Grand Jury 5/7/04 and David L. Parks of Apple Computer, Inc. (RESPONSE TO REQUEST) Tj 147 0 TD -

concept before the first Ramlink meeting was held, and their work was documented, dated and filed properly with the US patent office. Much of what was filed has not yet issued, and I cannot comment on specifics as these filings are confidential. I was asked at the last JEDEC meeting to report on our patent coverage relative to SyncLink as proposed at JEDEC at the next meeting in Crystal City in September. Our attorneys are currently working on this, so I think I will be in a position to make some sort of official statement at that time and plan to do so. In the meantime, I have nothing else to say to you or the rest of the committee about our patent position. If you want to search for issued patents held by Rambus, then you may learn something about what we clearly have covered and what we do not. But I must caution you that there is a lot of material that is currently pending and we will not make any comment at all about it until it issues.”

[R 157058].

RESPONSE TO REQUEST FOR ADMISSION NO. 75:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be an e-mail from Richard Crisp to Hans Wiggers on June 13, 1995 and that the request correctly quotes a portion of the language from the referenced document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 76

violated. However, the resolution of these questions is not a feasible task for this committee, so it must continue with the technical work at hand.”

[HR905_081903].

RESPONSE TO REQUEST FOR ADMISSION NO. 76:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be the minutes of the August 21, 1995 meeting of the IEEE 1596.7 task group and the request correctly quotes a portion of the language from the referenced document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 77:

Admit that at a September 11, 1995 JEDEC meeting in Crystal City, Virginia, Rambus provided the following prepared statement:

“At the last JEDEC meeting it was noted that the subject of the Synclink DRAM proposal bears a strong resemblance to Rambus DRAMs and so I was asked to make a comment about the Rambus
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For example, we are aware of 13 US patents relating to SDRAMs which were issued to member companies of this committee. All were active participants in the SDRAM standardization process. Included in this list are Hitachi, Mitsubishi, Mosaid, Motorola, Oki, Samsung, TI and Toshiba.

Additionally, Synlink is being sponsored by an organization with a less stringent patent policy than JEDEC. Under the bylaws of the IEEE working groups, attendees represent themselves only, not their employers. Furthermore they are free to patent whatever they desire, and are not bound to relinquish any of their rights to their patents by presenting their ideas for standardization.

Therefore, we conclude that products defined by committees are not guaranteed to be free of patent encumbrances.

At this time, Rambus elects to not make a specific comment on our intellectual property position relative to the Synlink proposal. Our presence or silence at committee meetings does not constitute an endorsement of any proposal under the committee's consideration nor does it make any statement regarding potential infringement of Rambus intellectual property."

[JDC 002265].

RESPONSE TO REQUEST FOR ADMISSION NO. 77:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that referenced document appears to be the September 11, 1995, JEDEC minutes from meeting no. 76 and that the request correctly quotes a portion of the language from the referenced document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 78

1596.7 task group meeting and the September 11, 1995 JEDEC 42.3 subcommittee meeting:

Solomon Alemayehu (Hitachi employee);

Sam Chen (Mitsubishi employee);

Adrian Cosoroaba (Fujitsu employee);

Farhad Tabrizi (Hyundai employee); and

Danny Yeung (Hitachi employee).

RESPONSE TO REQUEST FOR ADMISSION NO. 80:

REQUEST FOR ADMISSION NO. 81:

Admit that on or about December 7, 1995, Rambus and Micron signed a Non-Disclosure Agreement. [MR 0084894].

RESPONSE TO REQUEST FOR ADMISSION NO. 81:

Complaint Counsel admits that the referenced document appears to evidence the signing of a Mutual Nondisclosure Agreement between Rambus and Micron on or about December 7, 1995.

REQUEST FOR ADMISSION NO. 82:

Admit that Rambus attended its last JEDEC meeting when its representative Richard Crisp attended the 42.3 subcommittee meeting in December 1995 in Dallas, Texas. [JDC 002308].

RESPONSE TO REQUEST FOR ADMISSION NO. 82:

Complaint Counsel admits this request.

REQUEST FOR ADMISSION NO. 83:

Admit that the minutes of the January 11, 1996 meeting of the SyncLink Consortium contain the following statement:

“Rambus has 16 patents already with more pending. Rambus says their patents may cover our SyncLink approach even though our method came out of early RamLink work. Micron is particularly concerned to avoid the Rambus patents, though all of us share this concern.”

[HR905_135808].

RESPONSE TO REQUEST FOR ADMISSION NO. 83:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be minutes from a January 11, 1996 SyncLink Consortium meeting and states in part:

[Rambus has 16 patents already, with more pending. Rambus says their patents may cover our SyncLink approach even though our method came out of early RamLink work. Micron is particularly concerned to avoid the Rambus patents, though all of us share this concern.]

However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 84:

REDACTED.

RESPONSE TO REQUEST FOR ADMISSION NO. 84:

REQUEST FOR ADMISSION NO. 85:

Admit that the minutes of the May 13, 1996 meeting of the SyncLink Consortium contain the following statement:

“We need a JEDEC-like clause (which is similar to ANSI clause, which is similar to IEEE clause, which is to be changed because of problems with today’s patent realities, which requires ANSI clause to be changed for the same reason, so the situation is murky).”

[HR905_136287].

RESPONSE TO REQUEST FOR ADMISSION NO. 85:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be minutes from a May 13, 1996 SyncLink Consortium meeting and that the request correctly quotes a portion of the language from the referenced document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 86:

Admit that the ANSI Patent Policy did not in 1996 require the disclosure of patent

applications.

RESPONSE TO REQUEST FOR ADMISSION NO. 86:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, the term “ANSI Patent Policy” is not defined. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 87:

Admit that the ANSI Patent Policy has never required the disclosure of patent applications.

RESPONSE TO REQUEST FOR ADMISSION NO. 87:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, the term “ANSI Patent Policy” is not defined. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 88:

Admit that the ANSI Patent Policy does not today require the disclosure of patent applications.

RESPONSE TO REQUEST FOR ADMISSION NO. 88:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, the term “ANSI Patent Policy” is not defined. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 89:

Admit that in January 1996, the EIA informed the FTC in writing that “allowing patented technology in standards is procompetitive.” [1/22/96 letter to FTC].

RESPONSE TO REQUEST FOR ADMISSION NO. 89:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the request correctly quotes a portion of the language from the referenced document, which appears to be a January 22, 1996 letter from Dan Bart of EIA to Mr. Clark of the FTC. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 90:

Admit that in January 1996, the EIA informed the FTC in writing that “[b]oth EIA and TIA encourage the early, voluntary disclosure of patents that relate to the standards in work.” [1/22/96 letter to FTC].

RESPONSE TO REQUEST FOR ADMISSION NO. 90:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the request correctly quotes a portion of the language from the referenced document, which appears to be a January 22, 1996 letter from Dan Bart of EIA to Mr. Clark of the FTC. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself.

REQUEST FOR ADMISSION NO. 91:

Admit that in January 1996, the EIA informed the FTC in writing that:
“The early disclosure policies of EIA and TIA have worked well to highlight possible patents and ensure that they will be available for licensing by the time the standard is published. Even if knowledge of a patent comes later in time due to the pending status of a patent
riminatoit f 0 TcR A Tw patent

[1/22/96 letter to FTC].

RESPONSE TO REQUEST FOR ADMISSION NO. 91:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the request correctly quotes a portion of the language from the referenced document, which appears to be a January 22, 1996 letter from Dan Bart of EIA to Mr. Clark of the FTC. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself.

REQUEST FOR ADMISSION NO. 92:

Admit that the EIA has refused to opine as to whether patent license terms and royalty rates are or are not “reasonable.”

RESPONSE TO REQUEST FOR ADMISSION NO. 92:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, it specifies no time period and does not identify to whom EIA allegedly expressed such a refusal. As stated, Complaint Counsel lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 93:

Admit that JEDEC has refused to opine as to whether patent license terms and royalty rates are or are not “reasonable.”

RESPONSE TO REQUEST FOR ADMISSION NO. 93:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, it specifies no time period and does not identify to whom JEDEC allegedly expressed such a refusal. As stated, Complaint Counsel lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 94:

Admit that in January 1996, the EIA informed the FTC that the “EIA, TIA, and ANSI IPR policies relate to essential patents.” [1/22/96 letter to FTC].

RESPONSE TO REQUEST FOR ADMISSION NO. 94:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted,

those claims. [McGhee videotape].

RESPONSE TO REQUEST FOR ADMISSION NO. 96:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Complaint Counsel also objects that this request is vague and ambiguous because, among other things, it fails to define the term “JEDEC representative.” Complaint Counsel denies this request.

REQUEST FOR ADMISSION NO. 97:

Admit that on or about June 17, 1996, Rambus sent a letter to EIA Secretary Ken McGhee that stated in part as follows:

“I am writing to inform you that Rambus Inc. is not renewing its membership in JEDEC.

Recently at JEDEC meetings the subject of Rambus patents has been raised. Rambus plans to continue to license its proprietary technology on terms that are consistent with the business plan of Rambus, and those terms may not be consistent with the terms set by standards bodies, including JEDEC. A number of major companies are already licensees of Rambus technology. We trust that you will understand that Rambus reserves all rights regarding its intellectual property. Rambus does, however, encourage companies to contact Dave Mooring of Rambus to discuss licensing terms and to sign up as licensees.

To the extent that anyone is interested in the patents of Rambus, I have enclosed a list of Rambus U.S. and foreign patents. Rambus has also applied for a number of additional patents in order to protect Rambus technology.”

[R 157080].

RESPONSE TO REQUEST FOR ADMISSION NO. 97:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the request correctly quotes a portion of the language

from the referenced document, which does bear the date June 17, 1996, and does purport to have been sent from Richard Crisp to Ken McGhee. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 98:

Admit that no JEDEC Manual prior to July 1996 contained any written requirement that a member must disclose to JEDEC an intention “to amend a patent application [where it] believe[s] that, by doing so, it possibly could succeed in covering some aspect or implementation of JEDEC’s standards or its standard-setting work.” [Complaint Counsel’s Response and Objections to Respondent Rambus Inc.’s First Set of Interrogatories, at 58].

RESPONSE TO REQUEST FOR ADMISSION NO. 98:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, it is unlimited as to time. Subject to this objection, Complaint Counsel states that it lacks sufficient information to either admit or deny this request, as it does not have access to all JEDEC manuals ever published prior to July 1996.

REQUEST FOR ADMISSION NO. 99:

Admit that no JEDEC representative prior to July 1996 ever disclosed to JEDEC an intention “to amend a patent application [where it] believe[s] that, by doing so, it possibly could succeed in covering some aspect or implementation of JEDEC’s standards or its standard-setting work.” [Complaint Counsel’s Response and Objections to Respondent Rambus Inc.’s First Set of Interrogatories, at 58].

RESPONSE TO REQUEST FOR ADMISSION NO. 99:

Complaint Counsel objects to this request as vague and ambiguous because, among other

things, it provides no definition for the term “JEDEC representative.” Subject to this objection, Complaint Counsel states that it lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 100:

Admit that JEDEC members other than Rambus in the period 1990-1996 held, but did not disclose to JEDEC, pending patent applications that related to or might have been involved in JEDEC’s work.

RESPONSE TO REQUEST FOR ADMISSION NO. 100:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, it provides no definition for the terms “JEDEC members,” “JEDEC,” and “held.” Subject to this objection, Complaint Counsel states that it lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 101:

Admit that no JEDEC Manual prior to July 1996 contained any written description of the information that a member should provide when disclosing a patent or patent application to JEDEC pursuant to JEDEC’s patent policy.

RESPONSE TO REQUEST FOR ADMISSION NO. 101:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, it provides no definition for the terms “JEDEC” and “JEDEC’s patent policy,” and the request is not limited as to time. Subject to these objections, Complaint Counsel states that it lacks sufficient information to either admit or deny this request, as it does not have access to all JEDEC manuals ever published prior to July 1996.

REQUEST FOR ADMISSION NO. 102:

Admit that a disclosure to JEDEC in the time period 1990-1996 of an intention to file or

amend a patent application might have resulted in the disclosure of a JEDEC member's trade secrets to its competitors and/or customers.

RESPONSE TO REQUEST FOR ADMISSION NO. 102:

Complaint Counsel objects to this request on the grounds that it is an incomplete hypothetical. Without further information as to the assumed facts applicable to this hypothetical, Complaint Counsel can neither admit nor deny this request.

REQUEST FOR ADMISSION NO. 103:

Admit that Complaint Counsel are not aware of any standards setting organization other than JEDEC that, prior to 1997, required any disclosure of an intention to file a patent application or to amend a patent application.

RESPONSE TO REQUEST FOR ADMISSION NO. 103:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, it is unlimited as to time, and the request describes JEDEC's disclosure policies in a manner that does not comport with the evidence and appears to conflict with Rambus's own contentions in this case. Complaint Counsel also objects to this request on the grounds that it is an incomplete hypothetical. Subject to these objections, Complaint Counsel states that it lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 104:

Admit that prior to July 1996, Rambus had no claims in any pending patent application that, if issued, would have necessarily been infringed by the manufacture or use of any device manufactured in accordance with any JEDEC standard.

RESPONSE TO REQUEST FOR ADMISSION NO. 104:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, it provides no definition for the terms "would have necessarily been infringed" and

truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced expert report of Professor McAfee does note that:

According to news reports in the latter half of 1996, SyncLink DRAM (“SLDRAM”) would be available on a royalty-free basis following IEEE ratification, contradicting earlier reports suggesting that the SyncLink consortium was seeking to patent at least some of its design and would pursue licensing royalties from nonmembers. In October of 1996, three additional vendors – all of them Rambus licensees (Hitachi, Oki, and Toshiba) – signed on with the SyncLink industry consortium. [citing industry trade press, e.g., Andrew MacLellan, “DRAM Vendors Draft Memory Standard,” *Electronic News* (Sept. 9, 1996), at 4; Jack Robertson, “Superfast DRAM Spec OK’d,” *Electronic Buyers’ News* (July 1, 1996), at 3; Ron Wilson, “‘SyncLink’ to Take on SDRAMs,” *Electronic Engineering Times* (Apr. 10, 1995), at 1; Jack Robertson, “1-Gbit DRAM War Heats Up,” *Electronic Buyers’ News* (Oct. 28, 1996), at 22].

Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 107:

Admit that on or about September 17, 1996, a Texas Instruments patent counsel named Gary Honeycutt sent a letter to Farhad Tabrizi about the SyncLink Consortium’s September 9, 1996 press release, which letter stated that Tabrizi had confirmed that SLDRAMs would be royalty free only in the sense that copies of the specification could be obtained for free.

[R128270].

RESPONSE TO REQUEST FOR ADMISSION NO. 107:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be a letter from Gary Honeycutt to Farhad Tabrizi dated September 17, 1996, which states in part, *****

*****. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 108:

Admit that the minutes of the October 1, 1996 meeting of the SyncLink Consortium stated in connection with SyncLink's September 9, 1996 press release that:

“[w]e said this is a royalty free architecture. We didn't mean individual companies would not be able to collect royalties for the use of their property, we just meant that users won't have to pay royalties to the Consortium.”

[HR905_136650].

RESPONSE TO REQUEST FOR ADMISSION NO. 108:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be a copy of the minutes from an October 1-2, 1996 meeting of the SyncLink Consortium, which states in part,

[w]e said this is a royalty free architecture. We didn't mean individual companies would not be able to collect royalties for the use of their property, we just meant that users won't have to pay royalties to the Consortium.

However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 109:

Admit that since it was founded, Rambus has been in the business of designing, but not manufacturing, high-bandwidth memory and memory interface technologies. [McAfee

Appendix, p. 17].

RESPONSE TO REQUEST FOR ADMISSION NO. 109:

Complaint Counsel admits this request.

REQUEST FOR ADMISSION NO. 110:

Admit that the facts set out in Request no. 109, above, were known to Rambus's licensees in the early 1990's.

RESPONSE TO REQUEST FOR ADMISSION NO. 110:

Complaint Counsel objects to this request as vague and ambiguous because, among other things it fails to define "Rambus's licensees." Subject to this objection, Complaint Counsel states that it lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 111:

Admit that the business history of Rambus is essentially a history of its efforts to secure license agreements with vendors for the development of its designs and to convince equipment manufacturers to incorporate such licensed Rambus designs in their products. [McAfee Appendix, p. 18].

RESPONSE TO REQUEST FOR ADMISSION NO. 111:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Complaint Counsel objects to this request as vague and ambiguous because, among other things it fails to define "business history," "vendors," "designs," "equipment manufacturers," and "products." Subject to these objections, Complaint Counsel admits that the referenced expert report of Professor McAfee does note that:

Since it was founded in the early 1990s, Rambus has been in the business of designing, but not manufacturing, high-bandwidth memory and memory interface technologies. Without fabrication facilities of its own, Rambus was and is dependent upon other

vendors for its revenues; its sole product is intellectual property, which it licenses primarily on a royalty basis to other firms for development, production, and sale. Indeed, as was expressed in 1995 by Subodh Toprani, Rambus vice president of marketing, ‘We are an intellectual property company, . . . Royalties are what we need to be successful.’ In a sense, then, the business history of Rambus is essentially a history of its efforts to secure license agreements with vendors for the development of its designs and to convince equipment manufacturers to incorporate such licensed Rambus designs in their products. [citing industry trade press, e.g., Neal Boudette, “Startup Seeks to Be ‘Chipless’ Chip Company,” PC Week (Jan. 9, 1995), at 111].

Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 112:

Admit that on or about November 15, 1996, Intel and Rambus signed a License Agreement. [R 107530]

RESPONSE TO REQUEST FOR ADMISSION NO. 112:

Complaint counsel admits that the referenced documents appear to evidence the signing of a Semiconductor Technology License Agreement Between Rambus Inc. and Intel Corporation signed by ***** on November 15 and 14, 1996, respectively.

REQUEST FOR ADMISSION NO. 113:

Admit that the November 1996 announcement by Intel of its License Agreement with Rambus fed the perception of Rambus as the heir apparent for main memory and significantly heightened vendor fears regarding the selection of a proprietary design. [McAfee Appendix, p. 42].

RESPONSE TO REQUEST FOR ADMISSION NO. 113:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Complaint Counsel objects to this request as vague and ambiguous because, among other things it fails to

define “fed the perception,” “heir apparent,” “main memory,” “heightened vendor fears,” and “proprietary design.” Subject to these objections, Complaint Counsel admits that the referenced expert report of Professor McAfee does note that:

In November of 1995, an executive vice president for electronic devices at NEC had expressed his belief that ‘[h]ow fast Rambus gains market share depends on the philosophy of the CPU makers, especially Intel.’ This statement was to be demonstrated forcefully beginning about a year later, when it became widely known that Intel was in the process of selecting RDRAM as its memory architecture of choice. This announcement suddenly fed the perception of Rambus as the heir apparent for main memory and significantly heightened vendor fears regarding the selection of a proprietary design. [citing industry trade press, e.g., David Lammers, “Japanese, U.S. Firms Share DRAM Advances,” *Electronic Engineering Times* (Nov. 6, 1995), at 28].

Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 114:

Admit that by virtue of its considerable influence in the manufacture of processors and chipsets, Intel’s selection of Rambus threatened unilaterally to establish the Rambus DRAM as a de facto industry standard. [McAfee Appendix, p. 44].

RESPONSE TO REQUEST FOR ADMISSION NO. 114:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Complaint Counsel objects to this request as vague and ambiguous because, among other things it fails to define “threatened unilaterally,” and “de facto industry standard.” Subject to these objections, Complaint Counsel admits that the referenced expert report of Professor McAfee does note that “[b]y virtue of its considerable influence in the manufacture of processors and chipsets, Intel threatened to establish unilaterally a *de facto* standard for next-generation DRAMs with any selection of a preferred design for PC main memory.” [citing industry trade press, e.g., David Lammers and Ron Wilson, “Rambus DRAM Gets Intel Boost,” *Electronic Engineering Times*

(Dec. 16, 1996), at 1]. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 115:

Admit that in late 1996, the threat of Rambus becoming a bottleneck for DRAM design and a tollbooth for the collection of royalties was a widespread concern for DRAM vendors of main memory. [McAfee Appendix, p. 45].

RESPONSE TO REQUEST FOR ADMISSION NO. 115:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Complaint Counsel objects to this request as vague and ambiguous because, among other things it fails to define “bottleneck,” “tollbooth,” “widespread concern,” and “main memory.” Subject to these objections, Complaint Counsel admits that the referenced expert report of Professor McAfee does note that:

Almost immediately, DRAM manufacturers expressed misgivings about the Intel-Rambus development agreement. As one executive from Mitsubishi noted: ‘It’s a mixed blessing. . . . It can help streamline standards and unify direction but *if you end up with a single company controlling the fate of all DRAM suppliers, that doesn’t seem so attractive.*’ Indeed, the threat of Rambus becoming a bottleneck for DRAM design and a tollbooth for collection of royalties was a widespread concern for DRAM vendors of main memory, who operated in a competitive commodity market, maintained razor-thin margins, and faced unforgiving production schedules necessary to amortize huge capital investments in fabrication. . . . [citing industry trade press, e.g., Anthony Cataldo, “DRAM Makers Battle Rambus: But Intel Backs RDRAM Interface,” Electronic Buyers’ News (Dec. 16, 1996), at 1].

Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 118:

REDACTED.

RESPONSE TO REQUEST FOR ADMISSION NO. 118:

REQUEST FOR ADMISSION NO. 119:

Admit that the minutes of the December 3, 1996 SyncLink Consortium meeting state in part that:

“Many suppliers are paranoid over the prospect of a single customer, e.g. Intel having control of market. We can’t resist such a possibility individually. We need some united strategy.”

[HR905_130814].

RESPONSE TO REQUEST FOR ADMISSION NO. 119:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be a copy of the December 3-4, 1996 minutes of a SyncLink Consortium meeting and that the document states in part, “Many suppliers are paranoid over the prospect of a single customer, e.g. Intel having control of market. . . . We can’t resist such a possibility individually. We need some united

strategy.” [corrected quote] However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 120:

Admit that the minutes of the December 3, 1996 SyncLink Consortium contained the address of a “reflector” that could be used by DRAM manufacturers to communicate among themselves. [HR905_130814].

RESPONSE TO REQUEST FOR ADMISSION NO. 120:

To the extent this request seeks -

*****.

REQUEST FOR ADMISSION NO. 122:

REDACTED.

RESPONSE TO REQUEST FOR ADMISSION NO. 122:

*****.

REQUEST FOR ADMISSION NO. 123:

Admit that at the January 10, 1997 Tokyo meeting of DRAM manufacturers, a Siemens executive stated that Rambus was “not acceptable.” [HR905_136982].

RESPONSE TO REQUEST FOR ADMISSION NO. 123:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be minutes from a January 14-15, 1997 SyncLink Consortium meeting and that the request correctly quotes a portion of the language from the document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 124:

Admit that one of the attendees at the January 10, 1997 Tokyo meeting of DRAM manufacturers said that “[d]epending on Intel for business is worse than getting on drugs – it’s like someone is sleeping with your wife, and they want you to pay the hotel bill!” [HR905_136982].

RESPONSE TO REQUEST FOR ADMISSION NO. 124:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted,

speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 126:

Admit that prior to July 1996, there was no proposed standard balloted for approval by a JEDEC committee or subcommittee that included an on-chip PLL.

RESPONSE TO REQUEST FOR ADMISSION NO. 126:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, it provides no definition for the phrase “proposed standard balloted for approval” and the term “on-chip PLL.” Subject to this objection, Complaint Counsel denies this request, as stated.

REQUEST FOR ADMISSION NO. 127:

Admit that prior to July 1996, there was no proposed standard balloted for approval by a JEDEC committee or subcommittee that included an on-chip DLL.

RESPONSE TO REQUEST FOR ADMISSION NO. 127:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, it provides no definition for the phrase “proposed standard balloted for approval” and the term “on-chip DLL.” Subject to this objection, Complaint Counsel denies this request, as stated.

REQUEST FOR ADMISSION NO. 128:

Admit that prior to July 1996, there was no proposed standard balloted for approval by a JEDEC committee subcommittee that included a dual-edged clocking scheme.

RESPONSE TO REQUEST FOR ADMISSION NO. 128:

Complaint Counsel objects to this request as vague and ambiguous because, among other things, it provides no definition for the phrase “proposed standard balloted for approval” and the term “dual-edged clocking scheme.” Subject to this objection, Complaint Counsel denies this

request, as stated.

REQUEST FOR ADMISSION NO. 129:

Admit that in or about March 1997, Rambus and Micron signed a Semiconductor Technology Licensing Agreement. [R 25780]

RESPONSE TO REQUEST FOR ADMISSION NO. 129:

Complaint counsel admits that the referenced documents appear to evidence the signing of a Semiconductor Technology Licensing Agreement between Rambus and Micron in March 1997.

REQUEST FOR ADMISSION NO. 130:

Admit that the minutes of the March 13, 1997 JEDEC 42.3 subcommittee meeting stated, in connection with a presentation regarding dual data rate (“DDR”) technology, that “[s]ome on the committee felt that Rambus had a patent on that type of clock design. Others felt that the concept predated Rambus by decades Rambus has also told JEDEC that they do not intend to comply with JEDEC patent policies.” [JDC 002565].

RESPONSE TO REQUEST FOR ADMISSION NO. 130:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be minutes from a March 13-14, 1997 JEDEC 42.3 subcommittee meeting and that the request correctly quotes a portion of the language from the document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 131:

Admit that Micron has listed on its privilege log a March 25, 1997 e-mail from Micron employee Jeff Mailloux to Micron in-house counsel David Westergard containing a “confidential communication regarding SGRAM DDR and Rambus.” [Micron Privilege Log, hereinafter “MPL,” at 1007].

RESPONSE TO REQUEST FOR ADMISSION NO. 131:

Complaint Counsel admits that the referenced document appears to be listings from Micron’s Privilege Log, which lists a March 25, 1997 e-mail from Jeff Mailloux to David Westergard, Esq. and that the request correctly quotes a portion of the language from the document associated with that listing. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the full text of the relevant entry, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 132:

REDACTED.

RESPONSE TO REQUEST FOR ADMISSION NO. 132:

REQUEST FOR ADMISSION NO. 133:

Admit that Micron has listed on its privilege log a March 26, 1997 e-mail from M. Munn, Esq. to two of Micron’s JEDEC representatives that contains a “confidential communication regarding Rambus patents.” [MPL 184].

RESPONSE TO REQUEST FOR ADMISSION NO. 133:

Complaint Counsel admits that the referenced document appears to be listings from Micron’s Privilege Log, which lists a March 26, 1997 e-mail from Mr. Munn, Esq. to Kevin Ryan and Terry Lee and that the request correctly quotes a portion of the language from the document associated with that listing. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the full text of the relevant entry, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 134:

Admit that Micron has listed on its privilege log an April 11, 1997 e-mail from Kevin Ryan to Terry Lee and a Micron in-house lawyer that contains a “confidential communication regarding Rambus patents.” [MPL 191].

RESPONSE TO REQUEST FOR ADMISSION NO. 134:

Complaint Counsel admits that the referenced document appears to be listings from Micron’s Privilege Log, which lists an April 11, 1997 e-mail from Kevin Ryan to Terry Lee and David Westergard, Esq. and that the request correctly quotes a portion of the language from the document associated with that listing . However, Complaint Counsel submits that this language cannot properly be understood except by reference to the full text of the relevant entry, which

speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 135:

REDACTED.

RESPONSE TO REQUEST FOR ADMISSION NO. 135:

REQUEST FOR ADMISSION NO. 136:

REDACTED.

RESPONSE TO REQUEST FOR ADMISSION NO. 136:

REQUEST FOR AD

Micron employee Jeff Mailloux to Micron in-house counsel David Westergard and others containing a “[c]onfidential communication regarding Rambus development and SyncLink.” [MPL 1056].

RESPONSE TO REQUEST FOR ADMISSION NO. 139:

Complaint Counsel admits that the referenced document appears to be listings from Micron’s Privilege Log, which lists a July 11, 1997 e-mail from Jeff Mailloux to B. Donnelly, D. Westergard, Esq., T. Lee, and K. Ryan and that the request correctly quotes a portion of the language from the document associated with that listing. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the full text of the relevant entry, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 140:

Admit that in 1997, there was as yet no clear industry consensus on the next generation DRAM architecture. [McAfee Appendix, p. 117].

RESPONSE TO REQUEST FOR ADMISSION NO. 140:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Complaint Counsel also objects to this request as vague and ambiguous because, among other things, it fails to define the terms “clear industry consensus” and “next generation DRAM architecture.” Subject to these objections, Complaint Counsel

terms “JEDEC approval” and “packaging pinout specifications.” Subject to these objections, Complaint Counsel admits that the referenced expert report of Professor McAfee does note that “[t]he production of chips was only helpful insofar as the industry agreed to specifications rigorous enough to ensure widespread interoperability and compatibility. In March of 1998, SDRAM received JEDEC approval for its packaging pinout specifications, which cleared it for a full committee vote later that year. . .” [citing industry trade press, e.g., Andrew MacLellan, “DRAM Makers Disagree Over Future Memory Technologies,” CMP TechWeb (Mar. 9, 1998)]. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 143:

Admit that in 1997 and 1998, supplier resistance to the royalty fees and bottleneck of design control promised in a Rambus-mandated memory market manifested itself as an energized effort in the industry to establish open standards and develop alternative technologies. [McAfee Appendix, p. 49].

RESPONSE TO REQUEST FOR ADMISSION NO. 143:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Complaint Counsel also objects to this request as vague and ambiguous because, among other things, it fails to define the terms “supplier resistance,” “royalty fees,” “bottleneck,” “design control,” “Rambus-mandated memory market,” and “alternative technologies.” Subject to these objections, Complaint Counsel admits that the referenced expert report of Professor McAfee does note that “[c]ontinuing economic woes brought upon by low prices in the DRAM market and financial crises in Asia reduced the incentives of manufacturers in addressing these costly engineering issues. At the same time, however, supplier resistance to the royalty fees and bottleneck of design control promised in a Rambus-mandated memory market manifested itself

technologies. . .” Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 144:

Admit that DRAM manufacturers had a large and increasing resistance to the payment of intellectual property royalties on their manufactured products over the 1990s. [McAfee Appendix, p. 182].

RESPONSE TO REQUEST FOR ADMISSION NO. 144:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Complaint Counsel also objects to this request as vague and ambiguous because, among other things, it fails to define the terms “DRAM manufacturers,” “large and increasing resistance,” “intellectual property royalties,” and “manufactured products.” Subject to these objections, Complaint Counsel admits that the referenced expert report of Professor McAfee does note that “... that manufacturers of DRAM had a large and increasing resistance to the payment of intellectual property royalties on their manufactured products over the 1990s. With Texas Instruments already demanding royalties on fundamental DRAM patents, industry tolerance for the payment of new and additional fees was thin, particularly as selling prices for finished DRAM products declined precipitously and manufacturer margins disappeared.” [citing industry trade press, e.g., “Intel Buys Into Micron for RDRAM Assurance,” *Electronic Engineering Times* (Oct. 19, 1998), at 8; “Rambus on Track, DRAM Vendors Get Aggressive,” *Electronic News* (Sept. 21, 1998), at 16; Hugh G. Willett, “DRAM Makers Battle Rambus: Collision Course Was Inevitable,” *Electronic Buyers’ News* (Dec. 16, 1996), at 1]. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 145:

Admit that DRAM manufacture1 Dd5-

“patent pools,” or “cross-licenses.” Subject to these objections, Complaint Counsel denies this request, as stated.

REQUEST FOR ADMISSION NO. 148:

Admit that an industry analyst named Bert McComas gave a seminar on April 13, 1998 regarding “Rambus Strategies For DRAM Manufacturers.” [HR 905_127819; Inquest 843].

RESPONSE TO REQUEST FOR ADMISSION NO. 148:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be an e-mail from Bert McComas to Farhad Tabrizi, dated April **, 1998, and a presentation entitled ***** and that the request correctly quotes a portion of the language from the document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 149:

Admit that one of the strategies described by Bert McComas at his April 13, 1998 seminar was to “tape out but do not fully productize or cost reduce DRDRAM.” [Inquest 843].

RESPONSE TO REQUEST FOR ADMISSION NO. 149:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced document appears to be a presentation entitled ***** and that the request correctly quotes a portion of the language from the document. However, Complaint Counsel submits that this language cannot properly be understood except by reference to the document as a whole, which speaks for itself. Complaint

Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 150:

Admit that after Mr. McComas gave his Rambus strategy seminar on April 13, 1998, he was invited by SLDRAM, Inc. to speak to SLDRAM, Inc. company executives at a meeting in Monterey, California on or about June 25, 1998. [Tabrizi, p. 175, 178; HR 905_114285].

RESPONSE TO REQUEST FOR ADMISSION NO. 150:

Complaint Counsel admits this request.

REQUEST FOR ADMISSION NO. 151:

Admit that executives from Korean and Japanese DRAM manufacturers were present for Mr. McComas's June 25, 1998 presentation to SLDRAM, Inc. company executives. [Tabrizi, p. 178].

RESPONSE TO REQUEST FOR ADMISSION NO. 151:

Complaint Counsel admits this request.

REQUEST FOR ADMISSION NO. 152:

Admit that at the June 25, 1998 presentation, Mr. McComas stated that he wanted to receive DRAM manufacturers' DRDRAM production estimates in order to create and then send to DRAM manufacturers a combined DRDRAM forecast. [Tabrizi, p. 179].

RESPONSE TO REQUEST FOR ADMISSION NO. 152:

Complaint Counsel objects to this request on the grounds that it is directed at issues as to which Judge Timony, in his January 15, 2003, order has prohibited discovery in this proceeding. Moreover, the request is not calculated to lead to the discovery of admissible evidence, for reasons stated in that order, which states in part, "While proof of price fixing by DRAM manufacturers could show that higher prices downstream would not be entirely due to Rambus'

conduct, it is immaterial to the issues in this case, including whether Rambus' conduct alleged in the Complaint could tend to injure competition." On this basis, Complaint Counsel declines to admit or deny this request.

REQUEST FOR ADMISSION NO. 153:

REDACTED.

RESPONSE TO REQUEST FOR ADMISSION NO. 153:

REQUEST FOR ADMISSION NO. 154:

REDACTED.

RESPONSE TO REQUEST FOR ADMISSION NO. 154:

REQUEST FOR ADMISSION NO. 114:

REDACTED.

RESPONSE TO REQUEST FOR ADMISSION NO. 157:

REQUEST FOR ADMISSION NO. 115:

Admit that it was well known to DRAM manufacturers in 1998 and 1999 that Intel would be unsuccessful in ramping up RDRAM sales unless the cost of RDRAM came very close to that of SDRAM. [Tabrizi, pp. 172-3].

RESPONSE TO REQUEST FOR ADMISSION NO. 158:

Complaint Counsel

REQUEST FOR ADMISSION NO.159:

Admit that in 1998 and 1999, Rambus's development of RDRAM memories capable of achieving bandwidth of 1.6 GBps and better was just one condition for Intel's selection of the Rambus technology for PC main memory, and that Intel also required that commercial quantities of RDRAM and RDRAM-compatible system elements be widely available by its targeted

REQUEST FOR ADMISSION NO. 160:

Admit that by late 1998, the trade press was reporting that the price premium associated with DRDRAM relative to other memory architectures would keep OEMs from including DRDRAMs in all but the most performance-driven PCs. [McAfee Appendix, p. 100].

RESPONSE TO REQUEST FOR ADMISSION NO. 160:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Complaint Counsel also objects to this request as vague and ambiguous because, among other things, it provides no definition for the terms “price premium,” “OEMs,” or “performance-driven PCs.” Subject to these objections, Complaint Counsel admits that the referenced expert report of Professor McAfee does note that “By late 1998, the trade press was reporting that the price premium associated with Direct RDRAM relative to other memory architectures ‘will keep OEMs from including the high-speed device in all but the most performance-driven PCs.’” [citing industry trade press, e.g., Andrew MacLellan, “Direct RDRAM: Paying the Price,”

objections, Complaint Counsel admits t

compliant system elements would not be available in commercial quantities from multiple sources by the firm's target dates." [citing industry trade press, e.g., "Intel Reconsiders Rambus Transition," CMP TechWire (Jan. 27, 1998)]. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request.

REQUEST FOR ADMISSION NO. 163:

Admit that in 1998, there was as yet no clear industry consensus on next-generation DRAM architecture. [McAfee Appendix, p. 117].

were applying financial and staffing resources “that could have been spent on bringing the cost of Rambus memory down” to the development of other memory technologies. [McAfee Appendix, pp. 133-4].

RESPONSE TO REQUEST FOR ADMISSION NO. 164:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced expert report of Professor McAfee does include the above citation, which is a direct quote from an industry trade press article [“The Future Never Really Gets Here,” Electronic News (Mar. 1, 1999), at 8].

REQUEST FOR ADMISSION NO. 165:

Admit that in the spring of 1999, a trade press report stated that “[c]hip companies, from NEC to Toshiba, said they will refrain from building a large amount of Direct RDRAM production capacity to avoid a possible market glut later this year.” [McAfee Appendix, p. 144].

RESPONSE TO REQUEST FOR ADMISSION NO. 165:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced expert report of Professor McAfee does include the above citation, which is a direct quote from an industry trade press article [Jack Robertson, “Japan Scales Back Rambus Ramp: Memory Makers Delay DRDRAM Expenditures,” Electronic Buyers’ News (Mar. 29, 1999), at 1].

REQUEST FOR ADMISSION NO. 166:

Admit that in the summer of 1999, a Micron marketing manager told the press that he did not “realistically see how we can sell [RDRAM chips] for less than 50 percent premium any time soon.” [McAfee Appendix, pp. 130-1].

RESPONSE TO REQUEST FOR ADMISSION NO. 166:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Subject to this objection, Complaint Counsel admits that the referenced expert report of Professor McAfee does note that:

[a]ccording to Micron’s marketing manager for DRAM, however, pricing for RDRAM was still at least twice that of standard SDRAM and was not likely to fall below a premium of 50 in the near future. This was due in part to the fact that the RDRAM die size was about 25 percent larger than that for SDRAM and that the Rambus design required more expensive packaging and specialized testing equipment. Worrying that the “biggest concern among customers is cost,” the Micron representative nevertheless expressed that “I don’t realistically see how we can sell [RDRAM chips] for less than a 50 percent premium anytime soon.” [citing industry trade press, e.g., Will Wade and David Lammers, “Micron Tests Rambus Pricing with Samples at \$45,” Electronic

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objection, Complaint Counsel admits that the referenced expert report of Professor McAfee does note that “[a]lthough an earthquake in Taiwan temporarily had the effect of raising prices for SDRAM, trade press reports in September of 1999 continued to report that prices for Rambus

REQUEST FOR ADMISSION NO. 169:

Admit that in 1999 and 2000, a volume supply of DRDRAM was a necessary condition to drive down the price premium associated with the Rambus technology. [McAfee Appendix, p. 135].

RESPONSE TO REQUEST FOR ADMISSION NO. 169:

To the extent this request seeks an admission that the quoted language is evidence of the truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Complaint Counsel also objects to this request as vague and ambiguous because, among other things, it provides no definition for the terms “volume supply,” “necessary condition,” or “price premium.” Subject to these objections, Complaint Counsel admits that the referenced expert report of Professor McAfee does note that “[d]espite assertions by Rambus and Intel, analysts and industry participants at the outset of 1999 increasingly believed that volume supply of DRDRAM -- a necessary but not sufficient condition to drive down the price premium associated with the Rambus technology – was at least a year away.” [citing industry trade press, e.g., Jack Robertson, “Samsung Sees Scant Interest in 600-MHz RDRAM,” CMP TechWeb (June 16, 1999)]. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request, as stated.

REQUEST FOR ADMISSION NO. 170:

Admit that in 1999 and 2000, the failure of DRAM manufacturers to ramp up DRDRAM capacity had the potential to devastate Rambus commercially. [McAfee Appendix, p. 145].

RESPONSE TO REQUEST FOR ADMISSION NO. 170:

To the extent this request seeks an admission that the quoted language is evidence of the

truth of the matter asserted, Complaint Counsel objects on grounds of hearsay. Complaint Counsel also objects to this request as vague and ambiguous because, among other things, it provides no definition for the terms “ramp up,” “capacity,” or “devastate . . . commercially.” Subject to these objections, Complaint Counsel admits that the referenced expert report of Professor McAfee does note that “[a]s discussed previously, the failure to ramp up [DR-DRAM] capacity had the potential to devastate Rambus commercially.” [citing industry trade press, e.g., Hugh G. Willett, “Rambus May Be Niche Product,” *Electronic News* (Apr. 12, 1999), at 1]. Complaint Counsel otherwise lacks sufficient information to either admit or deny this request, as stated.

REQUEST FOR ADMISSION NO. 171:

Admit that in 1999 and 2000, the failure of DRAM manufacturers to ramp up DRDRAM capacity was in part the result of concerted action among at least some of the DRAM manufacturers.

were predicting that any price premium of DDR SDRAM over SDRAM would be 5% or less.

[McAfee Appendix, p. 155].

RESPONSE TO REQUEST FOR ADMIS

conduct, it is immaterial to the issues in this case, including whether Rambus' conduct alleged in the Complaint could tend to injure competition." On this basis, Complaint Counsel declines to admit or deny this request.

DATED: March 19, 2003

Respectfully submitted,

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