



transcripts, including *in camera* trial transcripts and exhibits. Rambus, however, has delayed producing pleadings and transcripts containing third party confidential information, even though Hynix had agreed to honor the confidentiality protection that information receives under the Protective Order.

The resulting dispute was resolved by order of the Special Master in *Hynix v. Rambus* on June 13, 2003. The Special Master set a July 1 deadline for production of all pleadings and transcripts except that material the production of which a third party had intervened to prevent. (That order is attached hereto as Exhibit A (the “June 13 Order”).) Rambus thereafter brought a motion to “clarify” the June 13 order, arguing it should not cover *in camera* trial testimony and exhibits. On June 23, the day before the hearing on its clarification motion in *Hynix v. Rambus*, Rambus raised the issue with the Administrative Law Judge during trial of this matter, but did not mention the June 13 order. (The transcript of the exchange is attached hereto as Exhibit B.) The following day Rambus cited its conversation with the Administrative Law Judge to the Special Master during the hearing on its motion for clarification. As a result, the Special Master issued another order stating that the June 13 order did not apply to *in camera* trial transcripts and exhibits. Instead, Rambus and Hynix were to “meet and confer” further to establish an appropriate procedure for producing *in camera* transcripts and exhibits.

At the proceedings in this matter on June 23, the Administrative Law Judge suggested that Hynix propose an amendment to the Protective Order to facilitate the production of third party *in camera* material that is not otherwise covered by the Protective Order.

Attached hereto as Exhibit C is a [Proposed] Order Amending Protective Order. Under the amendment, Rambus must provide notice of the impending production of *in camera* trial testimony and any trial exhibits introduced *in camera* that are not otherwise subject to the

Protective Order to the third parties whose testimony and/or documents were submitted *in camera*. The third parties then have ten business days to intervene in *Hynix v. Rambus* to prevent the production. The *in camera* material is otherwise automatically deemed “Confidential Discovery Material” under the Protective Order, without prejudice to the third party seeking a higher level of protection. Hynix has already agreed to honor the provisions of the Protective Order for any third party material subject to it.

The procedure set forth in the proposed amendment is intended to closely follow the procedure set forth in paragraph 16 of the Protective Order for the production in other actions of confidential third party material. Hynix submits that the procedure set forth is the most efficient way to protect third party confidential information without impeding discovery rights and obligations in other actions. Hynix therefore respectfully requests that the Administrative Law Judge permit the amendment to the Protective Order and execute the proposed order.

Dated: August 1, 2003

Respectfully Submitted,

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O’Melveny & Myers

Counsel for Non-Parties  
Hynix Semiconductor, Inc., Hynix  
Semiconductor America Inc., and  
Hynix Semiconductor Deutschland  
GmbH



Amending Protective Order, and a cover letter that will apprise the Third Party of

## CERTIFICATE OF SERVICE

It is hereby certified that copies of the foregoing THIRD PARTY HYNIX'S MOTION  
TO AMEND PROTECTIVE ORDER was served this 1st day of August, 2003, on the following:

The Honorable Stephen J. McGuire (By Hand)  
Administrative Law Judge  
Federal Trade Commission, Room H-112  
600 Pennsylvania Ave., N.W.  
Washington, D.C. 20580

Malcolm L. Catt (By Hand)  
Richard B. Dagen - Assistant Director (By Hand)  
Federal Trade Commission  
601 New Jersey Ave., N.W.  
Washington, D.C. 20001

M. Sean Royall – Deputy Director (By Hand)  
Federal Trade Commission, Room H-372  
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Darren S. Tucker