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FEDERAL TRADE COMMISSION

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EXHIBITS FOR ID IN EVID

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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of:)
Rambus, Inc.) Docket No. 9302
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Monday, May 19, 2003
10:00 a.m.

TRIAL VOLUME 12
PART 1
PUBLIC RECORD

BEFORE THE HONORABLE STEPHEN J. McGUIRE
Chief Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C.

Reported by: Josett F. Hall, RMR-CRR

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P R O C E E D I N G S

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3 JUDGE McGUIRE: This hearing is now in order.

4 Good morning, counsel. How are you doing this
5 morning?

6 Anything we need to take up before the start of
7 our hearing today by either side?

8 MR. OLIVER: No, Your Honor.

9 JUDGE McGUIRE: Okay. Then at this time
10 complaint counsel may proceed and call your next
11 witness.

12 Oh, I do have one thing. Going back to the
13 issue regarding the proposed testimony of Dr. Oh, I
14 have received this last week the augmented response by
15 I think respondent. I'm not sure I've received any

1 proceed with a combination of reading and playing from
2 the deposition transcripts of Mr. Lester Vincent.

3 If I could just say a few preliminary things.

4 First of all, we did have some proceedings
5 Thursday afternoon that were not on the record, and I
6 just wanted to let the record reflect this morning that
7 this will not allow us to ask all of the questions that
8 we had wanted to ask of Mr. Vincent and we still would
9 like to have a right to call him back.

10 JUDGE McGUIRE: That is correct. And I'll give
11 you that opportunity as I had indicated off the record
12 on Thursday.

13 MR. OLIVER: Thank you, Your Honor.

14 And then also just to give you a bit of
15 framework of how we are going to try to proceed today,
16 because there are so many different transcripts and
17 because they're quite fragmented, what we have tried
18 to do is we have tried to piece them together more or
19 less in chronological order in order to be able to
20 tell Your Honor a story. The result is we will be
21 jumping around from transcript to transcript, but we
22 think that the sequence of events will make more
23 sense. There are a few pieces that don't necessarily
24 fit in logical order, but we'll try to present those
25 as best we can.

1 JUDGE McGUIRE: And then at the conclusion of
2 that presentation, I assume the other side is going to
3 want to offer some counter-designations? Is that
4 true?

5 MR. DETRE: Not exactly, Your Honor. We have
6 provided our counter-designations to complaint counsel
7 and they have put our counter-designations into their
8 presentation and --

9 JUDGE McGUIRE: Okay.

10 MR. DETRE: That will be fine with us.

11 JUDGE McGUIRE: Very good.

12 Okay. Then, Mr. Oliver, you may proceed.

13 MR. OLIVER: As I mentioned, we do have some
14 video. There were, however, certain transcripts that I
15 do not have on video or we did not take in video, and
16 in addition, because of the press of time, we did not
17 have time to process all the video we have. We will do
18 a combination of reading and video. We have tried to
19 concentrate on videos that are portions that are less
20 document intensive where the testimony is perhaps more
21 important and will be reading you portions that will
22 focus more on documents.

23 With respect to exhibits, again, I apologize.
24 Unfortunately, we did not have time to make multiple
25 copies of all the exhibits that will be used. We do

1 have a set for you. To the extent we're reading them,
2 we can bring them up on the screen. When the video is
3 playing, we can give you a hard copy.

4 JUDGE McGUIRE: Okay. That's fine.

5 MR. OLIVER: And with respect to the record,
6 what we have proposed is that rather than having the
7 court reporter try to take down the testimony as it
8 proceeds, instead, we'll simply keep a record of the
9 pages and lines that are read in as well as a record of
10 rulings on objections, and at the conclusion we will
11 then create an electronic version, if you will, of the
12 portions that are accepted and read in, subject to
13 verification from the other side, and then we'll offer
14 that to be added into the record.

15 JUDGE McGUIRE: Do you have any comment on that
16 proposal?

17 MR. DETRE: That's fine with us.

18 JUDGE McGUIRE: Okay. Very good.

19 MR. OLIVER: And then finally, Your Honor, I
20 did want to mention that we have we believe worked out
21 most issues with respondent, but again due to the press
22 of time, there may be a few issues that come up that we
23 have not had a chance to consult. If something comes
24 up, we may just ask for a moment or two to pause and
25 consult.

1 JUDGE McGUIRE: No problem.

2 MR. OLIVER: I mentioned to you
3 Ms. Charlotte Manning has been very helpful and she has
4 actually taken a lead in putting this together, so she
5 will be doing a lot of the explanation today of what
6 we're doing and where we're going, and I'll turn it
7 over to her at this point.

8 JUDGE McGUIRE: Okay. Ms. Manning?

9 MS. MANNING: Good morning, Your Honor.

10 JUDGE McGUIRE: Good morning.

11 MS. MANNING: We'd like to offer into the
12 record the following transcripts.

13 And I would like to just say we are still
14 waiting for one copy from the copy center. However, we
15 can proceed for quite a bit without obtaining that
16 copy.

17 We're going to offer in Rambus versus Infineon
18 transcripts from January 12, 2001, March 14, 2001 --

19 MR. OLIVER: I'm sorry. Could we have just a
20 moment, Your Honor?

21 JUDGE McGUIRE: Go ahead.

22 (Pause in the proceedings.)

23 MS. MANNING: Your Honor, I'd like to correct
24 my misconception. We're not going to offer them into
25 the record. However, we are going to give Your Honor a

1 copy of the working drafts that we are using so that
2 you will be able to follow along.

3 And again, we do not have July 11, 2001 from
4 the Micron versus Rambus and that will be forthcoming.
5 But what we will do, and we felt that this would be
6 helpful for you and the court reporter, is we would
7 announce as we went along which transcript we were
8 reading and which exhibits that we were using from that
9 deposition.

10 JUDGE McGUIRE: Yes, please do, because
11 otherwise we're going to have some problems here
12 getting everything on the right date and the right
13 deposition.

14 MS. MANNING: Right. Then we will also give
15 you the corresponding CX or RX number as applicable.

16 JUDGE McGUIRE: Right.

17 MS. MANNING: There are some that do not have a
18 number. And for the testimony of Mr. Vincent we are
19 going to have Melissa Kassier, who is one of our honors
20 paralegal, reading his testimony, and then Mr. Oliver
21 will of course be reading the attorney's role. And I
22 will periodically be giving you a preview of what's to
23 come.

24 JUDGE McGUIRE: Okay. Very good.

25 MS. MANNING: Okay? Thank you.

1 If I could approach?

2 JUDGE McGUIRE: Please.

3 I just want to be clear now, the other side
4 does have a hard copy of these; is that correct?

5 MR. DETRE: Yes, we do.

6 JUDGE McGUIRE: Okay. Very good.

7 MS. MANNING: The first transcript we are
8 going to be reading from this morning is background
9 material from Mr. Vincent. It's the January 12,
10 2001 Rambus versus Infineon transcript and we will
11 begin with page 8, line 1 and read until page 8,
12 line 18.

13 JUDGE McGUIRE: Let me just say, I guess I
14 ought to put you under oath to the extent that -- so
15 she will be accurate and true in her reading, and I
16 don't know if that's commonplace, but if the parties
17 feel that is not required, then I won't do it, but I'm
18 otherwise inclined to put her under oath.

19 MR. DETRE: We don't think it necessary,
20 Your Honor.

21 JUDGE McGUIRE: Okay. Very good then.

22 You may proceed.

23 (Whereupon, the transcript cites were read into
24 the record in open court.)

25 MS. MANNING: We are now going to read from the

1 same transcript, page 9, lines 1 through 4.

2 (Whereupon, the transcript cites were read into
3 the record in open court.)

4 MS. MANNING: Page 9, line 13, continuing
5 through to page 11, line 10.

6 (Whereupon, the transcript cites were read into
7 the record in open court.)

8 MS. MANNING: Page 22, line 13 through line 20.

9 (Whereupon, the transcript cites were read into
10 the record in open court.)

11 MR. DETRE: We have an objection in the record
12 and I don't think we've discussed how we're going to
13 discuss how we're going to deal with objections.

14 JUDGE MCGUIRE: Let's go off the record for a
15 moment and you all can decide how you want to interact
16 here.

17 (Discussion off the record.)

18 MR. OLIVER: Your Honor --

19 JUDGE MCGUIRE: I'm sorry. Have the parties
20 decided how they want to conduct any of the opposing
21 counsel's objections in this case?

22 MR. OLIVER: Yes, Your Honor. I believe that
23 we have agreed that if it's an objection that they
24 have not raised, we will simply note objection
25 omitted.

1 MR. OLIVER: If we could have just a moment,
2 Your Honor.

3 JUDGE McGUIRE: Go ahead.

4 (Pause in the proceedings.)

5 MR. OLIVER: Your Honor, I believe that we have
6 a copy of the exhibit used in the original deposition.
7 We propose to show that to you simply for purposes of
8 context.

9 JUDGE McGUIRE: Any response, Mr. Detre?

10 MR. DETRE: We have no objection to them
11 showing it to Your Honor.

12 JUDGE McGUIRE: So you're not going to offer
13 it; you're just going to offer -- you're just going to
14 provide me with a copy so that I can follow it as we go
15 through the transcript; is that correct?

16 MR. OLIVER: Yes, that's correct, Your Honor.

17 JUDGE McGUIRE: Okay.

18 (Pause in the proceedings.)

19 MR. OLIVER: May I approach, Your Honor?

20 JUDGE McGUIRE: Yes.

21 MR. OLIVER: I'm reading now from page 65,
22 line 18.

23 (Whereupon, the transcript cites were read into
24 the record in open court.)

25 MS. MANNING: We will now read page 68, line 6

1 through page 70, line 18.

2 (Whereupon, the transcript cites were read into
3 the record in open court.)

4 MS. MANNING: We will now read page 70, line 40
5 to line 9 -- I beg your pardon -- page 71, line 4
6 through line 9.

7 (Whereupon, the transcript cites were read into
8 the record in open court.)

9 MS. MANNING: We will now read page 71, line 11
10 through page 72, line 12.

11 (Whereupon, the transcript cites were read into
12 the record in open court.)

13 MS. MANNING: We will now read page 75, line 12
14 through line 18.

15 In this portion there are some exhibits
16 mentioned. Exhibit 956 has a corresponding CX number
17 which is 1984. Exhibit 957 does not; however, we have
18 a copy of the original from the deposition that we can
19 give to you.

20 Exhibit 958 has a corresponding CX number and
21 that is CX-2008.

22 MR. DETRE: I'll just note, Your Honor, that we
23 have no objection to this, but the CX version is not in
24 all cases exactly this document, sometimes it's a
25 different copy of the document with different Bates

1 (Whereupon, the transcript cites were read into
2 the record in open court.)

3 MS. MANNING: We will now read page 87, line 3
4 through line 13.

5 During this passage there is an exhibit
6 mentioned which is 961, which has a corresponding Bates
7 number of CX-1931. We will give you a copy of 961 and
8 we will put 1931 on the screen.

9 (Whereupon, the transcript cites were read into
10 the record in open court.)

11 MS. MANNING: We will now read page 102, line 4
12 through line 10.

13 (Whereupon, the transcript cites were read into
14 the record in open court.)

15 MS. MANNING: We will now read from the
16 January 12, 2001 Rambus versus Infineon transcript.

17 The first portion is page 59, line 7 through
18 page 60, line 4.

19 (Whereupon, the transcript cites were read into
20 the record in open court.)

21 MR. OLIVER: I'm sorry, Your Honor. Could I
22 interrupt for just a moment?

23 JUDGE McGUIRE: Go ahead.

24 (Pause in the proceedings.)

25 MR. OLIVER: Your Honor, at this point we would

1 like to set up a demonstrative that shows a few of the
2 individuals at Rambus just for your reference as the
3 individual names come up during the testimony.

4 JUDGE MCGUIRE: All right.

5 MR. PERRY: In defense of various Rambus people
6 whose pictures are on this exhibit, this is not our
7 exhibit. We would have chosen much more flattering
8 pictures.

9 JUDGE MCGUIRE: You're not saying these came
10 from the DMV or anything like that?

11 MR. PERRY: Well, I'm actually not going to
12 respond to that, but they certainly did not come from
13 the annual report.

14 JUDGE MCGUIRE: Okay. So noted, Mr. Perry.

15 (Pause in the proceedings.)

16 MR. OLIVER: Your Honor, for the record, my
17 understanding is these pictures were actually taken
18 from the videos from the depositions, so I imagine that
19 the witnesses probably had something else on their mind
20 rather than posing for the pictures.

21 Continuing now with the reading of page 59,
22 line 7.

23 (Whereupon, the transcript cites were read into
24 the record in open court.)

25 MS. MANNING: We will now read page 60, line 18

1 through page 61, line 7.

2 (Whereupon, the transcript cites were read into
3 the record in open court.)

4 MS. MANNING: We will now read page 62, line 6
5 through line 17.

6 (Whereupon, the transcript cites were read into
7 the record in open court.)

8 MR. DETRE: Excuse me, Your Honor. I believe
9 that's an error in the transcript which I pointed out
10 to complaint counsel. They may not have made the
11 correction. But there was an errata sheet for the
12 transcript and that should read March of 1992.

13 JUDGE McGUIRE: Do we want notI made the

1 right after that designation, thus to make it clear
2 that we really are talking about March and not
3 January.

4 JUDGE MCGUIRE: Okay. Mr. Oliver?

5 MR. OLIVER: I see the statement you're
6 referring to. It appears it's probably correct, and as
7 I say, we would like to double-check the video. We
8 assume that's the case and we will correct that for the
9 version we submit in the record.

10 JUDGE MCGUIRE: That's fine. But in the
11 interim, could you read the question right below
12 starting on line 19?

13 Is that what you're referring to, Mr. Detre?

14 MR. DETRE: That's correct, Your Honor.

15 JUDGE MCGUIRE: I just want to include that
16 question and answer in this inquiry.

17 MR. OLIVER: Okay.

18 JUDGE MCGUIRE: For clarification.

19 MR. OLIVER: Beginning on page 62 from lines 19
20 to 21 reads...

21 (Whereupon, the transcript cites were read into
22 the record in open court.)

23 MR. OLIVER: I'll now continue reading on
24 page 62 at line 10.

25 (Whereupon, the transcript cites were read into

1 the record in open court.)

2 MS. MANNING: We will now read from the
3 April 11, 2001 Rambus versus Infineon transcript.

4 We will read page 275, line 12 through 279,
5 line 2.

6 There are some exhibits mentioned in this
7 portion, including Exhibit 1522 which has a
8 corresponding CX number of 1931, Exhibit 1523 which has
9 a corresponding CX number of 1937.

10 Exhibit 1524 does not have a corresponding CX
11 or RX number. We do have a copy for you.

12 Exhibit 1525 has a corresponding CX number of
13 1971.

14 Exhibit 1526 has a corresponding CX number of
15 1977.

16 Exhibit 1527 has a corresponding CX number of
17 2019.

18 We will provide the hard copy and we will also
19 put the ones that have a corresponding CX number on the
20 screen.

21 MR. OLIVER: May I approach?

22 JUDGE McGUIRE: Yes.

23 MR. DETRE: Objection, Your Honor. As we
24 marked in the transcript, we object to that question as
25 lacking foundation and assuming facts. There's been no

1 evidence of what the chief defenses were in the Wang
2 litigation.

3 MR. OLIVER: Your Honor, I think the following
4 answer from the witness clarifies what he does know and
5 what he does not know and I believe that the answer
6 again fully reflects the facts about Wang that
7 Mr. Vincent did understand.

8 JUDGE McGUIRE: Okay. Go ahead and you can ask
9 the upcoming question on that. If there's still an
10 objection, then I'll entertain it at that time.

11 Or you can read that next -- are you saying
12 that the next answer should resolve the objection? Is
13 that what you're saying?

14 MR. OLIVER: Yes, Your Honor.

15 JUDGE McGUIRE: Then go ahead and read it, and
16 if it does not resolve the objection, I'll rule.

17 MR. OLIVER: Shall I repeat the question,
18 Your Honor?

19 JUDGE McGUIRE: Yes. Go ahead.

20 (Whereupon, the transcript cites were read into
21 the record in open court.)

22 JUDGE McGUIRE: Mr. Detre?

23 MR. DETRE: Our objection stands, Your Honor.
24 There was no foundation. Apparently the witness did
25 not know what was involved in that particular Wang

1 litigation.

2 JUDGE McGUIRE: Okay. Do you have any comment
3 on that, Mr. Oliver?

4 MR. OLIVER: Yes, Your Honor. The discussion
5 here was involving the Wang-NEC litigation and as the
6 witness did say that he had heard that the Wang
7 litigation involved equitable estoppel.

8 JUDGE McGUIRE: Sustained -- overruled. I'm
9 sorry. That objection is overruled.

10 (Whereupon, the transcript cites were read into
11 the record in open court.)

12 MR. DETRE: Excuse me, Your Honor. I'm just
13 trying to follow along and this does not seem to be the
14 next reading that I have on my outline anyway.

15 MR. OLIVER: I apologize, Your Honor. I'm
16 following the markings on the page here.

17 MS. MANNING: Yes. We were stopping at line 2.

18 JUDGE McGUIRE: Okay. Now, what page are we
19 on? 279 or...

20 MS. MANNING: Yes.

21 MR. OLIVER: I apologize, Your Honor. I read
22 too far.

23 JUDGE McGUIRE: Okay. Let's go back.

24 MR. OLIVER: I had completed the portion that
25 we were supposed to be reading at that time.

1 JUDGE McGUIRE: Okay. Go ahead.

2 MS. MANNING: We will now read from the
3 February 3, 2003 deposition in the present matter.

4 Page 85 -- we will read page 85, line 10
5 through line 23.

6 In this portion there is an exhibit mentioned,
7 Exhibit 8 which has a corresponding CX number 1930. We
8 do not have Exhibit 8 with us. We do have CX-1930.

9 And Mr. Detre can correct me if I'm wrong, but
10 I believe this is a compilation that has further bill
11 records in this exhibit than was in Exhibit 8, but it
12 does contain a portion of Exhibit 8.

13 MR. DETRE: That's correct, Your Honor.

14 JUDGE McGUIRE: All right. So noted.

15 MR. OLIVER: May I approach?

16 JUDGE McGUIRE: Yes.

17 (Whereupon, the transcript cites were read into
18 the record in open court. HuU8ei† 2 MS. MANNI

121 Page 8279 line 16, through lage 8280 line 14

1 MR. OLIVER: May I approach?

2 (Whereupon, the transcript cites were read into
3 the record in open court.)

4 MS. MANNING: We will now read page 287, line 1
5 through 288, line 6.

6 In this portion there are two exhibits that are
7 mentioned, Exhibit 1523 which has a corresponding CX
8 number of 1937 and we have already given Your Honor
9 Exhibit 1523, and then Exhibit 1531 is mentioned and
10 that has a corresponding exhibit number of 1938. We
11 have 1531 to give to Your Honor.

12 (Whereupon, the transcript cites were read into
13 the record in open court.)

14 MS. MANNING: We will now read from the
15 January 12, 2001 Rambus versus Infineon transcript.

16 We will read page 129, line 15 through
17 page 130, line 4.

18 Two exhibits are mentioned during this passage,
19 Exhibits 388 and 339. We do not have corresponding CX
20 numbers for these two exhibits. We have the exhibits
21 from the deposition for Your Honor.

22 MR. DETRE: I'm not sure that these exhibits
23 actually add anything to the designated transcript. We
24 have no objection to them showing them to you if they'd
25 like to. I don't think it really has much to do with

1 the question and answer.

2 JUDGE McGUIRE: I haven't seen it, so I can't
3 rule, but do you have any comment, Mr. Oliver?

4 MR. OLIVER: Your Honor, if there's no
5 objection, I would be inclined to give them to you just
6 so you can see for yourself if they help in
7 understanding the question and answer.

8 (Whereupon, the transcript cites were read into
9 the record in open court.)

10 MS. MANNING: Okay, Your Honor. We're
11 actually going to shortly begin one of the video
12 clips. However, first we're going to read a portion
13 that we could not put onto video because of technical
14 difficulties, so those in the outline who are
15 following along can go to the second to the last
16 page.

17 JUDGE McGUIRE: I'm sorry. Is it the same
18 transcript?

19 MS. MANNING: Yes.

20 JUDGE McGUIRE: You said what page?

21 MS. MANNING: These are for the individuals
22 that are following along in our script, but we would
23 direct Your Honor to the transcript from January 11,
24 2001.

25 MR. DETRE: Is that April 11?

1 MS. MANNING: Thank you, Mr. Detre.

2 JUDGE McGUIRE: Okay. April 11.

3 MS. MANNING: I think it's actually July 11,
4 2001.

5 JUDGE McGUIRE: Okay. Got it.

6 MS. MANNING: We will read page 112, line 5 to
7 112, line 13.

8 MR. DETRE: Well, actually I think that's a
9 clarification of the question that's being asked.

10 (Whereupon, the transcript cites were read into
11 the record in open court.)

12 MS. MANNING: We will now read page 112,
13 line 14 through page 116, line 8.

14 (Whereupon, the transcript cites were read into
15 the record in open court.)

16 MS. MANNING: We will actually play the first
17 video clip, which is from April 12, 2001, page 554,
18 line 24 through 556, line 25.

19 (Whereupon, the videotape was played for the
20 record in open court.)

21 MS. MANNING: Your Honor, we are going to play
22 a second video clip from April 11, 2001.

23 MR. DETRE: If you could just let me -- if you
24 could hold on one second while I find that.

25 (Pause in the proceedings.)

1 According to my records, my outline, this is
2 quite a lengthy clip and we do have objections to a
3 part of it. And also we have a counter-designation
4 that we thought should have -- it should be inserted at
5 some point during this clip.

6 MS. MANNING: Yes. We inserted the clip. If
7 you look at the script, we inserted it where you had
8 asked for it. And after page 320?

9 MR. DETRE: Actually we -- well, there are a
10 couple of issues here.

11 MR. OLIVER: Your Honor, can I suggest we go
12 off the record for a moment?

13 JUDGE MCGUIRE: All right. Let's go off the
14 record and you all can confer.

15 MR. DETRE: Thank you.

16 (Discussion off the record.)

17 MR. OLIVER: There are two issues and I think
18 what we have decided is that one issue can be resolved
19 after this clip is played. The other objection -- the
20 other issue involves an objection during the course of
21 the clip. I'll allow Mr. Detre to state the
22 objection.

23 JUDGE MCGUIRE: All right. Mr. Detre?

24 MR. DETRE: Yes, Your Honor. This objection
25 relates to a question and answer that appears at

1 page 320 of the April 11, 2001 transcript beginning at
2 line 6.

3 JUDGE McGUIRE: All right. 320?

4 MR. DETRE: Yes.

5 JUDGE McGUIRE: Okay. Line 6. Okay.

6 MR. DETRE: And there's a question and answer.
7 Mr. Vincent makes a statement about citing at some
8 point early on that "I believe I said I didn't think
9 it's a good idea" in his answer and then two pages or a
10 few pages further on at page 326, lines 3 to 18
11 essentially retracts that testimony. He thinks he was
12 mistaken about it.

13 We don't think the initial question and answer
14 should go into the record. Complaint counsel have --
15 so we object to it.

16 Complaint counsel have agreed that to the
17 extent that our objection is overruled they will play
18 that part on page 326. And we have counter-designated
19 for that eventuality, but we don't think that there's
20 any point in playing either one of them since he --

21 JUDGE McGUIRE: What's the foundation for the
22 objection?

23 MR. DETRE: That the original testimony is
24 misleading. It doesn't reflect Mr. Vincent's actual
25 view since it was retracted a few pages further on in

1 the transcript.

2 JUDGE McGUIRE: Okay. Hold on a second.

3 (Pause in the proceedings.)

4 Any comment, Mr. Oliver?

5 MR. OLIVER: Yes, Your Honor. We do not
6 believe that on page 326 Mr. Vincent retracts his own
7 answer. He does clarify -- I mean, he does state that
8 he has some difficulties in remembering, but
9 Your Honor, we would submit that the appropriate course
10 would be for you to hear the answer on page 320, also
11 to hear the answer on page 326 and for you to decide to
12 what extent, if at all, he retracts the answer but more
13 importantly simply how to reconcile the two pieces of
14 testimony and what weight to give to each piece of
15 testimony in light of both pieces of testimony
16 together.

17 JUDGE McGUIRE: All right. Overruled. I'll
18 hear the two questions and the two answers.

19sfryyehEDTDGE MThank6 anVER: Yes, Youanswers.

20 19sfryS. MANNING: 9 Your 'er go ret tobr but more

1 Pages 295, line 3 through 295, line 25.

2 Pages 296 through 298 -- I'm sorry -- page 296,
3 line 3 through page 298, line 12. Exhibit 1523 and
4 Exhibit 1534 are discussed. Exhibit 1523 has a
5 corresponding Bates number of CX 1937. Exhibit 1534
6 does not have a corresponding CX or RX number; however,
7 we do have a copy for you.

8 The video will proceed to page 299, line 5
9 through page 302, line 3.

10 Page 302, line 24 through page 303, line 7.

11 Page 305, line 17 through page 307, line 2.

12 Page 310, line 2 through page 310, line 13,
13 which discusses Exhibit 1535, which has a corresponding
14 CX number of 1942.

15 Page 311, line 8 through page 313, line 9,
16 which discusses Exhibit 1523, which again you have seen
17 and has a corresponding CX number of 1937.

18 Page 314, line 19 through page 315, line 14.

19 Page 316, line 22 through page 318, line 14.

20 Page 320, line 6 through page 321, line 8.

21 Page 326, line 3 through page 326, line 18.

22 And we have copies of the deposition exhibits
23 for you.

24 (Whereupon, the videotape was played for the
25 record in open court.)

1 MS. MANNING: Your Honor, we're going to give
2 you the exhibits. We apologize.

3 MR. OLIVER: May I approach?

4 JUDGE McGUIRE: Yes.

5 (Whereupon, the videotape was played for the
6 record in open court.)

7 MS. MANNING: The next video clip will be from
8 the April 12, 2001 Rambus versus Infineon transcript.

9 Page 391, line 19 to 392, line 23.

10 Page 396, line 10 through page 397, line 16.

11 During this testimony, there is an exhibit that
12 is mentioned, 1555, which has a corresponding CX number
13 of 1958, and we have a copy for you.

14 MR. OLIVER: May I approach?

15 JUDGE McGUIRE: Yes.

16 (Whereupon, the videotape was played for the
17 record in open court.)

18 MS. MANNING: Your Honor, we're going to now
19 read from the July 12, 2001 transcript, page 255,
20 line 14 to 259, line 2.

21 In this portion there is an Exhibit 987 which
22 is mentioned. We have a copy for you, and the
23 corresponding CX number is 1958.

24 JUDGE McGUIRE: Yes.

25 MR. OLIVER: May I approach, Your Honor?

1 JUDGE McGUIRE: Yes, you can.

2 MS. MANNING: Again, if I could restate for the
3 record, it's page 255, line 14 through 259, line 2.

4 (Whereupon, the transcript cites were read into
5 the record in open court.)

6 MS. MANNING: We will continue reading from
7 this transcript at page 321, line 12 through page 322,
8 line 4.

9 In this portion Exhibit 1536 is discussed,
10 which has a corresponding Bates number of CX 1943. We
11 have a copy for Your Honor and we will put it on the
12 screen.

13 Can I correct myself? We're not reading from
14 the same transcript. We're now in April 11, 2001.

15 JUDGE McGUIRE: That's what I thought.

16 MR. OLIVER: Your Honor, may I approach?

17 JUDGE McGUIRE: Yes.

18 MS. MANNING: Again, if I could state for the
19 record, we'll be reading from 321, line 12 through
20 page 322, line 4.

21 MR. OLIVER: Could we have a moment,
22 Your Honor, please.

23 JUDGE McGUIRE: All right. Let's go off the
24 record.

25 (Discussion off the record.)

1 MS. MANNING: Your Honor, we will read
2 page 322, line 12 through page 322, line 24.

3 In addition to Exhibit 1536, there is another
4 exhibit discussed, 1537, which has a corresponding
5 Bates number of CX 1944.

6 Your Honor, may I begin again?

7 JUDGE MCGUIRE: Sure. Go ahead.

8 MS. MANNING: We will be reading page 322,
9 line 12 through page 322, line 24.

10 (Whereupon, the transcript cites were read into
11 the record in open court.)

12 MS. MANNING: Your Honor, we will now read
13 page 323, line 6 through line 15.

14 (Whereupon, the transcript cites were read into
15 the record in open court.)

16 MS. MANNING: Your Honor, we will now read
17 page 324, line 14 through page 325, line 25.

18 There are three exhibits discussed in this
19 section, Exhibit 1540 which has a corresponding Bates
20 number of CX-1945, Exhibit 1541 which has a
21 corresponding Bates number of 1946. There are two
22 other exhibit numbers which we do not have
23 corresponding CX numbers, 1538 and 1539. We have a
24 copy for you.

25 MR. OLIVER: May I approach?

1 JUDGE McGUIRE: Yes.

2 MS. MANNING: If we could have just one minute,
3 Your Honor.

4 JUDGE McGUIRE: Go ahead.

5 (Pause in the proceedings.)

6 MS. MANNING: Your Honor, we're unable to
7 locate at this time copies of Exhibits 1538 and 1539;
8 however, we can provide those to you if you wish at the
9 conclusion of today.

10 JUDGE McGUIRE: Then I won't need them at this
11 time.

12 Counsel, do you have a copy?

13 MR. DETRE: We don't have a copy, Your Honor.

14 JUDGE McGUIRE: Maybe at the end of the day if
15 you can make copies for the two of us, that will help.

16 MR. OLIVER: Yes, Your Honor.

17 (Whereupon, the transcript cites were read into
18 the record in open court.)

19 MS. MANNING: We will now read page 327,
20 line 23 to page 328, line 1.

21 (Whereupon, the transcript cites were read into
22 the record in open court.)

23 MS. MANNING: We will now read page 330,
24 line 22 to page 332, line 5.

25 In this portion Exhibit 1542 is mentioned which

1 has a corresponding CX number of 1947. We will give
2 you a copy of Exhibit 1542 and bring up a copy of
3 CX-1947 on the screen.

4 (Whereupon, the transcript cites were read into
5 the record in open court.)

6 MS. MANNING: We will now read page 332,
7 line 25 to page 333, line 24.

8 In this portion Exhibit 1543 is discussed,
9 which has a corresponding Bates number of CX-1926. We
10 will give you a copy and bring up a copy of the CX on
11 the screen.

12 (Whereupon, the transcript cites were read into
13 the record in open court.)

14 MS. MANNING: We will now read from the
15 February 3, 2003 transcript in the present matter.

16 We will read page 81, line 1 through page 82,
17 line 6.

18 In this portion Exhibit 7 is discussed which
19 has a corresponding exhibit number CX-1926. We have a
20 copy of Exhibit 7 for you, Your Honor, and we will
21 bring up the CX-1926 on the screen.

22 (Whereupon, the transcript cites were read into
23 the record in open court.)

24 MS. MANNING: We will continue along on the
25 same page reading line 21, continuing to page 83,

1 line 20.

2 (Whereupon, the transcript cites were read into
3 the record in open court.)

4 MS.2

1 is CX-205-A or RX-1211.

2 Exhibit 976 has a corresponding CX number which
3 is 202. We do not have a corresponding CX number for
4 Exhibit 952. Let me see if I can locate it.

5 (Pause in the proceedings.)

6 We do have a copy of 952.

7 MR. OLIVER: May I approach?

8 JUDGE McGUIRE: Yes.

9 (Whereupon, the transcript cites were read into
10 the record in open court.)

11 MR. OLIVER: If I could go back on the record,
12 Your Honor, we've been going for some time. Would this
13 be an appropriate place to suggest a break?

14 JUDGE McGUIRE: Yes, why don't we do that. Do
15 you want to take a ten-minute break or do you want to
16 break for lunch? You advise me. I'm good either way.

17 Off the record.

1 JUDGE McGUIRE: This hearing is now in order.

2 And you may proceed, Mr. Oliver.

3 MS. MANNING: Yes, Your Honor. We will now
4 read from the February 3, 2003 transcript in the
5 present matter.

6 We will read page 91, line 23 to 92, line 13.

7 In this portion, Exhibit 8 is mentioned, which
8 is a subset of Exhibit CX-1930 which we previously have
9 given to you, but we will give you also a copy of
10 Exhibit 8.

11 MR. OLIVER: May I approach?

12 JUDGE McGUIRE: Yes.

13 (Whereupon, the transcript cites were read into
14 the record in open court.)

15 MS. MANNING: We will now read from page 96,
16 line 16 to page 97, line 9.

17 (Whereupon, the transcript cites were read into
18 the record in open court.)

19 MS. MANNING: Your Honor, if you look two lines
20 further, they're actually referring to Exhibit 8.

21 JUDGE McGUIRE: Any comment on that by either
22 side?

23 MR. DETRE: Well, I'm not sure that that's
24 clear, Your Honor. It's not clear to me.

25 JUDGE McGUIRE: It's not clear to me either.

1 MR. OLIVER: Your Honor, it's not clear to me
2 either. Perhaps we could consult afterwards and see if
3 we can straighten that out.

4 JUDGE McGUIRE: All right.

5 MS. MANNING: We will now read page 99, line 5
6 to 100, line 9.

7 (Whereupon, the transcript cites were read into
8 the record in open court.)

9 MS. MANNING: We will now read from the
10 April 11, 2001 transcript beginning at page 337,
11 line 11 to 338, line 7.

12 During this portion of testimony, Exhibit 1546
13 is discussed, which has a corresponding CX number of
14 1949. We have a copy for Your Honor and we will pull
15 up a copy on the screen.

16 (Whereupon, the transcript cites were read into
17 the record in open court.)

18 MR. DETRE: Maybe I've lost my spot. I just
19 don't see that on my transcript.

20 MR. OLIVER: Your Honor, could we go off the
21 record at this moment, please.

22 JUDGE McGUIRE: Yes.

23 (Discussion off the record.)

24 MR. OLIVER: Your Honor, I think we've
25 straightened out the confusion. I propose to start

1 again at page 337, line 19 for context.

2 JUDGE McGUIRE: All right. Go ahead.

3 (Whereupon, the transcript cites were read into
4 the record in open court.)

5 MS. MANNING: We will now read page 338,
6 line 16 to 340, line 10.

7 (Whereupon, the transcript cites were read into
8 the record in open court.)

9 MS. MANNING: We will now read page 342, line 5
10 to line 15.

11 (Whereupon, the transcript cites were read into
12 the record in open court.)

13 MS. MANNING: We will now read page 343,
14 line 11 to line 22.

15 (Whereupon, the transcript cites were read into
16 the record in open court.)

17 MS. MANNING: We will now read page 345, line 7
18 to line 19.

19 (Whereupon, the transcript cites were read into
20 the record in open court.)

21 MS. MANNING: We will now read page 346,
22 line 15 to page 347, line 7.

23 (Whereupon, the transcript cites were read into
24 the record in open court.)

25 MS. MANNING: We will now read page 348,

1 line 22 to 349, line 16.

2 (Whereupon, the transcript cites were read into
3 the record in open court.)

4 MS. MANNING: We will continue with page 349,
5 line 17 through line 22.

6 (Whereupon, the transcript cites were read into
7 the record in open court.)

8 MS. MANNING: We will move to the July 12,
9 2001 transcript, page 223.

10 Line 13 through 16, which references
11 Exhibit 981, which has a corresponding CX number of
12 1949. We have a copy of 981 for you and we'll bring up
13 CX-1949 on the screen.

14 (Whereupon, the transcript cites were read into
15 the record in open court.)

16 MS. MANNING: We will now read from page 230,
17 line 20 to 231, line 10.

18 (Whereupon, the transcript cites were read into
19 the record in open court.)

20 MS. MANNING: We will read page 235, line 2
21 through 236, line 10.

22 (Whereupon, the transcript cites were read into
23 the record in open court.)

24 MS. MANNING: We will now read from the
25 February 3, 2003 transcript.

1 Page 107, line 14 through page 108, line 13.

2 In this portion, an exhibit is mentioned,
3 Exhibit 9, which is a portion of Exhibit CX-1930. We
4 have already given Your Honor a copy of 1930. We have
5 a copy of Exhibit 9 which we will also give to you.

6 MR. OLIVER: May I approach?

7 JUDGE MCGUIRE: Yes.

8 (Whereupon, the transcript cites were read into
9 the record in open court.)

10 MS. MANNING: We will continue on that page at
11 line 22, through to page 109, line 3.

12 (Whereupon, the transcript cites were read into
13 the record in open court.)

14 MS. MANNING: We will now read from the
15 October 9, 2001 transcript in Micron versus Rambus at
16 page 412.

17 We will read page 412, line 22 through
18 page 414, line 6.

19 In this section, Exhibit 1367 is discussed,
20 which corresponds to CX-1957. We have a copy of
21 Exhibit 1367 for you, Your Honor, and we will also
22 bring up 1957 on the screen.

23 (Whereupon, the transcript cites were read into
24 the record in open court.)

25 MR. DETRE: I don't me to interrupt the flow,

1 but I think you've gone beyond that designation and we
2 don't have that particular exhibit, so...

3 JUDGE McGUIRE: That's what I have here marked,
4 that he's still within the designation marked on my
5 copy.

6 MR. DETRE: Oh, is that right? I apologize,
7 Your Honor.

8 JUDGE McGUIRE: Okay.

9 MR. DETRE: I must have lost my place.

10 JUDGE McGUIRE: Do you want to read that last
11 portion again, Mr. Oliver?

12 MR. OLIVER: If I could perhaps begin with the
13 last two questions, Your Honor, starting at the bottom
14 of page 414 at line 23.

15 (Whereupon, the transcript cites were read into
16 the record in open court.)

17 MS. MANNING: We will now read from the
18 February 3, 2003 transcript in the present matter at
19 page 127, line 14 through line 23.

20 In this portion, Exhibit 10 is referenced,
21 which again is a portion of CX-1930 which we previously
22 gave to you. We will also give you a copy of
23 Exhibit 10.

24 (Whereupon, the transcript cites were read into
25 the record in open court.)

1 MS. MANNING: We will continue to page 129,
2 line 5 through line 17.

3 (Whereupon, the transcript cites were read into
4 the record in open court.)

5 MS. MANNING: We will now progress to July 11,
6 2001. I'm sorry. It's July 12, 2001.

7 We will read line 5 through line 16.

8 In this portion of testimony, Exhibit 986 is
9 referenced, which corresponds to CX-1959.

10 JUDGE McGUIRE: What page are we on? What
11 page?

12 MS. MANNING: We are on page 251.

13 JUDGE McGUIRE: Okay.

14 MR. OLIVER: May I approach?

15 JUDGE McGUIRE: Yes.

16 (Whereupon, the transcript cites were read into
17 the record in open court.)

18 MS. MANNING: We will read further from
19 page 252, line 1 through page 254, line 12.

20 (Whereupon, the transcript cites were read into
21 the record in open court.)

22 MS. MANNING: We will now read from the
23 February 3, 2003 transcript at page 78, line 16 through
24 page 79, line 15.

25 During this portion, Vincent Number 6 is

1 mentioned, which corresponds to CX-1959.

2 (Whereupon, the transcript cites were read into
3 the record in open court.)

4 MS. MANNING: We will continue reading line 19
5 through page 80, line 9.

6 (Whereupon, the transcript cites were read into
7 the record in open court.)

8 MS. MANNING: We will now read from the
9 April 12, 2001 transcript in Rambus versus Infineon at
10 page 445, line 13 through page 447, line 8.

11 In this portion of testimony, Exhibit 1557 and
12 Exhibit 1556 are mentioned. 1557 corresponds to
13 CX-1960 and 1556 corresponds to CX-1959. We have
14 copies of each of these exhibits for Your Honor and we
15 will put up the corresponding CX number exhibit on the
16 screen.

17 (Whereupon, the transcript cites were read into
18 the record in open court.)

19 MS. MANNING: We will now read page 449,
20 line 16 through 452, line 11.

21 I'm sorry, ave

2 12 OX4nT: We will now re lpu lpu lpu 100rG7 12 OX4nT: We

We wili8s0e2pkdsuno49, rs6 aAaf 68 li8G7 12 OX4nT: Wee exhdiscuss

1 Przybylski 662 is discussed, which corresponds to
2 CX-1459. We have copies of each of these for you and
3 we'll bring them up on the screen.

4 (Whereupon, the transcript cites were read into
5 the record in open court.)

6 MS. MANNING: We will return to the April 12,
7 2001 transcript at page 447, line 12 through page 449,
8 line 5.

9 In this portion of testimony, Exhibits 1558,
10 1559 and 1556 are discussed. Exhibit 1558 corresponds
11 to CX-1961, 1559 corresponds to CX-1963, 1556
12 corresponds to CX-1959.

13 We seem to be missing Exhibit 1556 and we
14 can -- strike that. We have given you 1556 previously,
15 Your Honor.

16 MR. OLIVER: Your Honor, could I approach the
17 witness for a moment?

18 JUDGE McGUIRE: Yes.

19 (Whereupon, the transcript cites were read into
20 the record in open court.)

21 MR. DETRE: Objection, Your Honor. There's no
22 foundation that's GTL and CTT and it assumes facts that
23 are not in evidence.

24 JUDGE McGUIRE: Sustained.

25 MS. MANNING: We will now read page 449,

1 is a subset, again, of Exhibit CX-1930. We have a copy
2 of Exhibit 11 for Your Honor.

3 (Whereupon, the transcript cites were read into
4 the record in open court.)

5 MR. OLIVER: Your Honor, we're about to start
6 1994. I wonder if this might be an appropriate place
7 to break for lunch.

8 JUDGE MCGUIRE: That would be fine. How much
9 time do you want to take today?

10 MR. OLIVER: I think if we can keep it a little
11 bit shorter than usual.

12 JUDGE MCGUIRE: Do you want to make it an
13 hour?

14 MR. DETRE: That would be adequate.

15 MR. OLIVER: That's fine.

16 JUDGE MCGUIRE: It's now 1:30. We'll break
17 for lunch and reconvene at 2:30.

18 The hearing is recessed.

19 (Whereupon, at 1:30 p.m., a lunch recess was
20 taken.)

21

22

23

24

25

A F T E R N O O N S E S S I O N

(2:30 p.m.)

3 JUDGE McGUIRE: This hearing is now in order.

4 Counsel, I wanted to confirm something before
5 we start this afternoon that was said in our closed
6 session on Thursday that ought to be at this time on
7 the record.

8 And during our conversations regarding the
9 order I issued on May 13 regarding the -- a
10 reconsideration of the complaint counsel's motion to
11 compel, I believe I'd indicated on Thursday off the
12 record that I would put a stay on that order until we
13 resolve the -- what's going to be the opinion motion to
14 be filed I think today by respondent asking me to
15 alternatively reconsider that motion and/or an
16 application -- to certify an application on that
17 question for interlocutory appeal.

18 So just so it's clear, I have stayed that order
19 until those issues are resolved. Okay?

20 Okay. Then at this point you can I guess
21 proceed at this time, Mr. Oliver.

22 MR. OLIVER: Thank you, Your Honor.

23 MS. MANNING: We will read from the April 12,
24 2001 transcript at page 461, line 20 through 462,
25 line 12.

1 In those passages, two exhibits are discussed,
2 Exhibit 1568 which corresponds to CX-1970 and
3 Exhibit 1525 which corresponds to CX-1971.

4 MR. OLIVER: May I approach, Your Honor?

5 JUDGE McGUIRE: Yes, you may.

6 Just one second.

7 (Pause in the proceedings.)

8 Okay.

9 (Whereupon, the transcript cites were read into
10 the record in open court.)

11 MS. MANNING: We will continue at page 463,
12 line 16 through to page 465, line 19.

13 (Whereupon, the transcript cites were read into
14 the record in open court.)

15 MS. MANNING: We will continue at page 471,
16 line 16 through to page 472, line 1.

17 In this passage, Exhibit 1574 is discussed
18 which does not have a corresponding CX or RX number;
19 however, we have a copy for you, Your Honor.

20 MR. OLIVER: May I approach?

21 JUDGE McGUIRE: Yes.

22 (Whereupon, the transcript cites were read into
23 the record in open court.)

24 MR. PERRY: Your Honor, I'm sorry to interrupt,
25 but I just had a conversation electronically with

1 certify for interloc on the grounds that by the time
2 we got to that point in the conversation it was
3 unclear as to if your colleague was in fact going to
4 file the application for interlocutory appeal, and I
5 certainly told him he had that option, but it wasn't
6 clear as to what day of the week he was going to do
7 that.

8 Now, perhaps there was some talk about that on
9 Tuesday, but I don't think we ever pinned that down.

10 Do you have any --

11 MR. PERRY: I'm sorry. But my understanding
12 just from talking to Mr. Stone was that we were going
13 to see what Your Honor did with the reconsideration to
14 see if the order changed so we would know what we were
15 going up on.

16 JUDGE MCGUIRE: Right. That was my
17 anticipation and that was certainly the understanding
18 that I had, so to that extent then he doesn't -- he's
19 not required to file an application for interlocutory
20 appeal at any time certain at this point.

21 MR. PERRY: Right. Now, if Your Honor wants
22 to look at what we file and say please go ahead and
23 file an application, we're not trying to slow this
24 down.

25 JUDGE MCGUIRE: No. I understand. I

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1 understand, Mr. Perry. I thought that just given the
2 issues involved, I would prefer that you go ahead and
3 file, you know, your motion for reconsideration and
4 then allow me to address that after complaint counsel
5 has had a chance to file their response, and then after
6 that, then you certainly are free to file whatever
7 other pleadings you feel you have to file.

8 MR. PERRY: That will be filed today.

9 JUDGE MCGUIRE: Okay. Very good. All right.

10 MR. PERRY: Thank you, sir.

11 JUDGE MCGUIRE: Thank you, Mr. Perry.

12 MR. OLIVER: I believe that we're in the
13 April 12, 2001 transcript at page 471, line 16 to 472,
14 line 1.

15 (Whereupon, the transcript cites were read into
16 the record in open court.)

17 MS. MANNING: Continuing the same deposition at
18 page 472, line 22 through page 473, line 5.

19 (Whereupon, the transcript cites were read into
20 the record in open court.)

21 MS. MANNING: Continuing to page 475, line 15
22 to 476, line 4, which also discusses Exhibit 1575,
23 corresponding to CX-734. We have a copy of
24 Exhibit 1575 for Your Honor.

25 (Whereupon, the transcript cites were read into

1 the record in open court.)

2 MS. MANNING: We'd like to back up a little
3 bit. We inadvertently omitted some testimony on
4 page 475, line 3 through 8.

5 (Whereupon, the transcript cites were read into
6 the record in open court.)

7 MS. MANNING: We'll turn to the February 3,
8 2003 transcript at page 145, line 7 through page 147,
9 line 4.

10 This passage references Exhibit 11 which
11 corresponds to CX-1930 which we previously gave
12 Your Honor.

13 MR. OLIVER: Your Honor, may I approach the
14 witness?

15 JUDGE McGUIRE: Yes.

16 (Whereupon, the transcript cites were read into
17 the record in open court.)

18 MS. MANNING: We will now move to the April 12,
19 2001 transcript, to page 480, line 5 through page 482,
20 line 6.

21 DuriohgDh8Tj 18 20 line 6.

1 MS. MANNING: We will continue in the same
2 transcript at page 475, line 5 through line 20, which
3 discusses Exhibit 1588. We do not have a corresponding
4 CX or RX number; however, we have a copy of
5 Exhibit 1588 for Your Honor.

6 MR. OLIVER: May I approach?

7 JUDGE McGUIRE: Yes.

8 (Whereupon, the transcript cites were read into
9 the record in open court.)

10 MS. MANNING: We will now go to page 497,
11 line 13 and read through to page 498, line 13.

12 This passage discusses Exhibit 1590 which has a
13 corresponding CX number of 1974. We will give
14 Your Honor a copy and bring up the other exhibit on the
15 screen.

16 (Whereupon, the transcript cites were read into
17 the record in open court.)

18 MS. MANNING: We will now move into the
19 1995 time period. And if we could stay in the same
20 transcript and go to page 501, line 23, we will read
21 through to page 502, line 18, which references
22 Exhibit 1594, corresponding to CX-1978. We have a copy
23 of Exhibit 1594 for Your Honor and we will bring up
24 CX-1978 on the screen.

25 MR. DETRE: Your Honor, we object to this

1 designation testimony because the witness testifies
2 that he doesn't know this document and it's not his
3 writing. There's no foundation for it.

4 JUDGE McGUIRE: Mr. Oliver, a response?

5 MR. OLIVER: If you could give me just a
6 moment, please.

7 JUDGE McGUIRE: Sure.

8 (Pause in the proceedings.)

9 MR. OLIVER: If I could have just a moment to
10 confer with opposing counsel.

11 JUDGE McGUIRE: Go ahead.

12 Off the record.

13 (Discussion off the record.)

14 MR. OLIVER: Your ?ew 11 unsel.

1 the record in open court.)

2 MS. MANNING: We'll continue to page 8 --
3 pardon me -- we'll continue to page 508, line 10
4 through line 24.

5 (Whereupon, the transcript cites were read into
6 the record in open court.)

7 MS. MANNING: We will continue to page 522,
8 line 1 through line 21.

9 Exhibit 1611 is referenced, which corresponds
10 to CX-1983.

11 (Whereupon, the transcript cites were read into
12 the record in open court.)

13 MS. MANNING: We will now move to the
14 February 3, 2003 transcript at page 157, line 17, and
15 we will read through to page 157, line 24.

16 This passage references Exhibit 12, which has a
17 corresponding CX number of CX-1973. We have a copy of
18 Exhibit 12 for Your Honor and we will bring up the
19 CX-1973 on the screen.

20 (Whereupon, the transcript cites were read into
21 the record in open court.)

22 MS. MANNING: We will continue to page 160,
23 line 24 through to page 161, line 9.

24 (Whereupon, the transcript cites were read into
25 the record in open court.)

1 MS. MANNING: We will continue to page 164,
2 line 16 and read through to page 164, line 23.

3 This passage references Exhibit 13, which has a
4 corresponding CX number of 2000. We have Exhibit 13
5 for Your Honor.

6 (Whereupon, the transcript cites were read into
7 the record in open court.)

8 MS. MANNING: We will read page 165, line 6
9 through to page 166, line 1.

10 (Whereupon, the transcript cites were read into
11 the record in open court.)

12 MS. MANNING: We will continue at page 166,
13 line 24 through to 168, line 19.

14 (Whereupon, the transcript cites were read into
15 the record in open court.)

16 MS. MANNING: We will progress to page 191,
17 line 21 and read through to page 192, line 12.

18 This passage discusses Exhibit 19, which has a
19 corresponding CX number of 1482. We have a copy of
20 Exhibit 19 for Your Honor and we will bring up CX-1482
21 on the screen.

22 (Whereupon, the transcript cites were read into
23 the record in open court.)

24 MS. MANNING: We will continue at page 193,
25 line 14 and read through to page 196, line 6.

1 (Whereupon, the transcript cites were read into
2 the record in open court.)

3 MS. MANNING: We will continue reading at
4 page 196, line 12 through to page 197, line 18, which
5 also discusses Exhibit 20 and its corresponding
6 exhibit number is CX-1487. We have a copy of
7 Exhibit 20 for Your Honor and we will bring up CX-1487
8 on the screen.

9 (Whereupon, the transcript cites were read into
10 the record in open court.)

11 MS. MANNING: We will continue reading at
12 page 197, line 19 through to page 199, line 24.

13 (Whereupon, the transcript cites were read into
14 the record in open court.)

15 MS. MANNING: We are now going to discuss
16 1996 and we will have two readings and then we will
17 actually view a video clip.

18 If we could go to April 12, 2001 at page 561,
19 line 5, we will read through to page 563, line 7.

20 And in that section there are two exhibits
21 that are discussed, Exhibit 1625 which corresponds to
22 CX-1994 and Exhibit 1626 which corresponds to CX-1992.
23 We have copies of Exhibits 1625 and 1626 for
24 Your Honor and we will bring up the CX exhibits on the
25 screen.

1 (Whereupon, the transcript cites were read into
2 the record in open court.)

3 MS. MANNING: We will continue at page 563,
4 line 15 and read through to page 566, line 13.

5 This section also discusses Exhibit 1627 which
6 corresponds to CX-1996 and Exhibit 1628 for which we
7 have no corresponding CX or RX number. I have copies
8 of 1627 and 1628 for Your Honor.

9 (Whereupon, the transcript cites were read into
10 the record in open court.)

11 MS. MANNING: Your Honor, we're now going to
12 play a video clip from the April 12, 2001 transcript,
13 which encompasses pages 530, line 2 to page 531,
14 line 16.

15 During this passage, two exhibits are
16 discussed, Exhibit 1619 which corresponds to CX-1989
17 combined with CX-3051, and Exhibit 1509 is discussed,
18 which corresponds to RX-647 or CX-1990. We have a copy
19 of Exhibit 1619 for you and we have a copy of
20 CX-1990 which corresponds to 1509 for you and we will
21 bring up both of those CXs on the screen.

22 I take that back. We will not bring up the
23 exhibits on the screen.

24 (Whereupon, the videotape was played for the
25 record in open court.)

1 MS. MANNING: Your Honor, that was not the
2 April 12, 2001 transcript. That was actually the
3 March 14, 2001 transcript. And I'll read the citations
4 into the record.

5 That was 187, line 16 through 188, line 14;
6 page 189, line 21 to page 189, line 25; page 190,
7 line 14 to page 191, line 11; page 191, line 12 to
8 page 194, line 8; 194, line 9 to page 194, line 18;
9 page 196, line 18 to page 198, line 12; page 198,
10 line 14 to page 198, line 23; and finally, page 251,
11 line 24 to page 252, line 23.

12 We will now play the April 12, 2001, page 530,
13 line 2 to 531, line 16, which references Exhibits 1619
14 and 1509.

15 (Whereupon, the videotape was played for the
16 record in open court.)

17 MS. MANNING: And we're going to read the last
18 portion. Unfortunately, we had technical difficulties.
19 It's October 9, 2001, page 404, line 24 through to
20 page 405, line 25.

21 And that references Exhibit 1366, which is a
22 combination of Exhibit CX-1989 and CX-3051. And we
23 have a copy for Your Honor.

24 (Whereupon, the transcript cites were read into
25 the record in open court.)

1

MS. MANNING: We will continue at page 406,

1 (Whereupon, the videotape was played for the
2 record in open court.)

3 MS. MANNING: Your Honor, we will now read from
4 the October 9, 2001 transcript at page 451, line 13 to
5 page 454, line 12.

6 And during that portion, there's two exhibits
7 that are discussed, Exhibits 868 which corresponds to
8 CX-999 and 622 which corresponds to CX-1459. And we
9 have copies of Exhibit 868 and 102 -- pardon me --
10 Exhibits 868 and 622 for Your Honor.

11 (Whereupon, the transcript cites were read into
12 the record in open court.)

13 MS. MANNING: We will continue on page 455 at
14 line 12 through line 14 -- pardon me -- line 11 through
15 line 14.

16 (Whereupon, the transcript cites were read into
17 the record in open court.)

18 MS. MANNING: We will now go to page 456,
19 line 18 through page 457, line 5.

20 In this section, Exhibit 869 is discussed,
21 which corresponds to CX-2001. We have a copy of
22 Exhibit 869 for you.

23 (Whereupon, the transcript cites were read into
24 the record in open court.)

25 MS. MANNING: We'll continue at page 457,

1 line 21 and read through to page 460, line 20.

2 (Whereupon, the transcript cites were read into
3 the record in open court.)

4 MS. MANNING: We will continue to page 461,
5 line 4 through page 465, line 9.

6 (Whereupon, the transcript cites were read into
7 the record in open court.)

8 MS. MANNING: We will now read from the
9 April 12, 2001 transcript at page 573, line 9 through
10 575, line 22.

11 This passage discusses Exhibit 1633 which
12 corresponds to CX-2006 and we have a copy of 1633 for
13 Your Honor.

14 (Whereupon, the transcript cites were read into
15 the record in open court.)

16 MS. MANNING: We will now read from the
17 October 9, 2001 transcript at page 473, line 23 through
18 to page 476, line 14.

19 This passage discusses Exhibit 1374, which
20 corresponds to CX-883, and we have a copy of 1374 for
21 Your Honor.

22 MR. PERRY: Your Honor, may I inquire if this
23 is a decent time for a break? We've gone over two
24 hours.

25 JUDGE McGUIRE: I think this is a good time for

1 a break. Let's go off for ten minutes.

2 MR. OLIVER: Thank you, Your Honor.

3 JUDGE McGUIRE: Thank you, Mr. Perry.

4 (Recess)

5 JUDGE McGUIRE: Go ahead, Mr. Perry.

6 MR. PERRY: A short housekeeping matter. The
7 parties have negotiated another proposed stipulation
8 with respect to admissibility of short lists.

9 JUDGE McGUIRE: Okay.

10 MR. PERRY: And it will be formally filed and
11 served tomorrow, but we have signature copies that I
12 could hand up to you.

13 JUDGE McGUIRE: Okay. Fine.

14 MR. PERRY: Thank you.

15 JUDGE McGUIRE: Thank you.

16 MS. MANNING: We're at the October 9,
17 2001 transcript, page 473, line 23 through page 476,
18 line 14. And we are showing Your Honor Exhibit CX-883.

19 MR. OLIVER: May I approach?

20 JUDGE McGUIRE: Yes.

21 (Whereupon, the transcript cites were read into
22 the record in open court.)

23 MS. MANNING: Your Honor, during that portion
24 of the transcript, it referenced Crisp Exhibit 28,
25 which we have a copy of that for Your Honor.

1 We will now read page 537, line 16 to page 537,
2 line 19.

3 (Whereupon, the transcript cites were read into
4 the record in open court.)

5 MS. MANNING: We will now read page 537,
6 line 25 to page 539, line 8.

7 MR. OLIVER: I'm sorry, Your Honor. Could we
8 have just a moment, please?

9 JUDGE McGUIRE: Go ahead.

10 (Pause in the proceedings.)

11 MR. OLIVER: I'm sorry, Your Honor.

12 MS. MANNING: And can I correct the citation?
13 It would be 537, line 25 to 539, line 3.

14 (Whereupon, the transcript cites were read into
15 the record in open court.)

16 MS. MANNING: Your Honor, could we go off the
17 record for a minute?

18 JUDGE McGUIRE: Okay. Off the record.

19 (Discussion off the record.)

20 MS. MANNING: We will now read page 540,
21 line 15, to page 540, line 23.

22 (Whereupon, the transcript cites were read into
23 the record in open court.)

24 JUDGE McGUIRE: Let me just add on that that
25 you noted improperly -- that it began on line 13 for

1 the record. Actually you said line 15.

2 MS. MANNING: Thank you, Your Honor.

3 We will now read page 488, line 13 to 489,
4 line 8.

5 And this testimony references two exhibits that
6 we have previously given Your Honor, Crisp Exhibit 28
7 and Diepenbrock Exhibit 881.

8 (Whereupon, the transcript cites were read into
9 the record in open court.)

10 MS. MANNING: We will now read page 490, line 8
11 to 490, line 19.

12 (Whereupon, the transcript cites were read into
13 the record in open court.)

14 MS. MANNING: We will now read page 490,
15 line 20 to page 491, line 13.

16 (Whereupon, the transcript cites were read into
17 the record in open court.)

18 MS. MANNING: We will now read from the
19 March 14, 2001 transcript at page 233, line 6 to
20 page 235, line 21.

21 In this section, a few exhibits are discussed.

22 DTX 12 corresponds to CX-873.

23 DTX 13 corresponds to CX-874.

24 DTX 14 corresponds to CX-876.

25 DTX 15 corresponds to CX-880.

1 DTX 125 corresponds to CX-887.

2 And we have copies of these for you,
3 Your Honor.

4 (Whereupon, the transcript cites were read into
5 the record in open court.)

6 MS. MANNING: We will now continue reading at
7 page 241, line 10 through page 242, line 1.

8 (Whereupon, the transcript cites were read into
9 the record in open court.)

10 MS. MANNING: We will continue reading at
11 page 242, line 2 to line 10.

12 (Whereupon, the transcript cites were read into
13 the record in open court.)

14 MS. MANNING: We will now read from the
15 October 9, 2001 transcript at page 496, line 1 to
16 line 6.

17 (Whereupon, the transcript cites were read into
18 the record in open court.)

19 MS. MANNING: We will now go to page 377 and
20 read line 11 through 23.

21 (Whereupon, the transcript cites were read into
22 the record in open court.)

23 MS. MANNING: We will read page 380, line 21
24 through page 382, line 11.

25 (Whereupon, the transcript cites were read into

1 the record in open court.)

2 MR. OLIVER: Actually if I could just go off
3 the record for a minute, Your Honor?

4 JUDGE McGUIRE: Yes.

5 (Discussion off the record.)

6 MR. OLIVER: If you could pick up on line 17,
7 please.

8 (Whereupon, the transcript cites were read into
9 the record in open court.)

10 MS. MANNING: We will now read from page 383,
11 line 23 to page 384, line 22.

12 (Whereupon, the transcript cites were read into
13 the record in open court.)

14 MS. MANNING: We will read page 389, line 21
15 through page 390, line 2, which also references
16 Exhibit 883 and its corresponding CX number is 889.

17 (Whereupon, the transcript cites were read into
18 the record in open court.)

19 MS. MANNING: We continue at page 390, line 16
20 through line 20.

21 (Whereupon, the transcript cites were read into
22 the record in open court.)

23 MS. MANNING: We continue at page 391, line 15
24 through page 392, line 6.

25 (Whereupon, the transcript cites were read into

1 the record in open court.)

2 MS. MANNING: We continue at page 392, line 24
3 through page 393, line 20.

4 (Whereupon, the transcript cites were read into
5 the record in open court.)

6 MS. MANNING: We continue at page 395, line 8
7 through line 13.

8 (Whereupon, the transcript cites were read into
9 the record in open court.)

10 MS. MANNING: We continue at page 395, line 21
11 through page 396, line 8.

12 Correction. That's through page 396, line 9.

13 (Whereupon, the transcript cites were read into
14 the record in open court.)

15 MS. MANNING: We'll now read from page 397,
16 line 7 to line 19.

17 (Whereupon, the transcript cites were read into
18 the record in open court.)

19 MS. MANNING: We'll continue at page 397,
20 line 23 through page 399, line 23.

21 In this section, Exhibit 865 is referenced,
22 which corresponds to CX-890, and we have a copy of 865
23 for Your Honor.

24 (Whereupon, the transcript cites were read into
25 the record in open court.)

1 (Pause in the proceedings.)

2 Your Honor, can we go off the record for a few
3 minutes? We're having some technical problems.

4 JUDGE McGUIRE: Yes. Let's go off the record
5 then.

6 (Discussion off the record.)

7 JUDGE McGUIRE: You may proceed.

8 (Whereupon, the videotape was played for the
9 record in open court.)

10 MR. OLIVER: Your Honor, we've paused the
11 record here for a moment.

12 The next portion that was designated by
13 respondent's side contains a series of questions that
14 were asked by counsel for Rambus and we have objected
15 to the questions as leading. We believe that they
16 would be topics that respondent could ask of
17 Mr. Vincent when he appears to testify live, but with
18 respect to these questions, at this time we believe
19 they should not be permitted to ask the leading
20 questions.

21 JUDGE McGUIRE: Mr. Detre?

22 MR. DETRE: Well, there are certain questions
23 that call for a yes or no answer, but they don't
24 suggest the answer to be given, so we disagree that
25 they're leading, and not all of the questions fall in

1 that category, so...

2 JUDGE McGUIRE: Well, I mean, that's the
3 standard. Just because they require an answer of a yes
4 or no is not inherently leading. The issue is whether
5 the questions suggest the answers, so on that ground,
6 I'm going to overrule the objection.

7 MR. DETRE: Thank you, Your Honor.

8 (Whereupon, the videotape was played for the
9 record in open court.)

10 MR. OLIVER: Your Honor, now that you've had
11 an opportunity to actually hear the questions, I'd
12 like to renew my objection to these questions as
13 leading.

14 JUDGE McGUIRE: Go ahead, Mr. Detre.

15 MR. DETRE: Well, we disagree, Your Honor, on
16 the same basis I said before. He could answer yes or
17 no completely truthfully to those questions.

18 MR. OLIVER: Your Honor, I believe that the
19 answer was very implicit in the questions being asked
20 by Rambus' own counsel. The answer that Rambus'
21 counsel was seeking was evident in the nature of those
22 questions.

23 MR. DETRE: Well, obviously --

24 JUDGE McGUIRE: Can we play those two questions
25 back? Is that possible?

1 (Whereupon, the videotape was played for the
2 record in open court.)

3 JUDGE McGUIRE: Stop it right there.

4 All right. That objection is overruled. That
5 question is not leading.

6 Now, let's go to the next one.

7 (Whereupon, the videotape was played for the
8 record in open court.)

9 JUDGE McGUIRE: Stop it there.

10 That objection is overruled. That is not a
11 leading question.

12 Now, how many more of these do we have that we
13 need to rule on?

14 MR. OLIVER: Your Honor, I think they fall in
15 the same category. If that's your ruling, then I think
16 we'll withdraw the remaining objections.

17 JUDGE McGUIRE: Okay. Fair enough.

18 (Whereupon, the videotape was played for the
19 record in open court.)

20 MR. OLIVER: We would object to this question
21 as irrelevant.

22 JUDGE McGUIRE: I'll hear you, Mr. Detre, but
23 I'm prepared to rule.

24 MR. DETRE: Well, yes, Your Honor. I mean,
25 obviously there's been a cloud here over Mr. Vincent

1 and Rambus for destroying documents in certain files,
2 and his general procedures about document retention is
3 certainly relevant to other --

4 JUDGE McGUIRE: Okay. That objection is
5 sustained. It is irrelevant.

6 MR. OLIVER: Your Honor, the following two
7 questions also relate to other clients and we would
8 raise the same objection as to relevance for those two
9 questions as well.

10 JUDGE McGUIRE: Also sustained.

11 MR. OLIVER: Your Honor, for technical reasons,
12 we may have to play these two portions anyhow, but for
13 the portion that we will submit for the record -- for
14 the portion --

15 JUDGE McGUIRE: Wait a minute. Now, let's be
16 consistent with what I've done here. I don't want to
17 play them back if they've been -- if the testimony that
18 you've asked me to rule on has been overruled, I mean,
19 you know, we don't want to play something that we've
20 already determined is not to be played.

21 MR. OLIVER: Then if you can hold on a
22 moment --

23 JUDGE McGUIRE: I will. Let's go off the
24 record.

25 MR. PERRY: Before we go off the record --

1 JUDGE MCGUIRE: Let's stay on the record.

2 MR. PERRY: You may recall there's a provision,
3 even if you exclude evidence, it has to be in some
4 place.

5 JUDGE MCGUIRE: Right. You can make that offer
6 of proof.

7 MR. PERRY: So I don't see that there's any
8 harm in having you hear it since it needs to be in the
9 record that goes up anyway, if it's going to be
10 technically difficult, but at least what Mr. Oliver
11 said, he wouldn't include it when it's offered. We've
12 got to figure out a way to put that in because we do
13 believe that his ordinary practice and the fact that he
14 wasn't going and doing anything different than what he
15 ordinarily does is relevant here.

16 JUDGE MCGUIRE: Well, we can certainly -- you
17 are correct that that can be maintained in the file
18 because you have, you know, objected and you've stated
19 the grounds, and should there be an appeal in this
20 case, then we'd have to have that then preserved for
21 the full commission.

22 Do you have any response to that, Mr. Oliver?

23 MR. OLIVER: I just wanted to say that we want
24 to be clear that with respect to the portions being
25 included in the record for purposes of findings and

1 briefs, et cetera, that it should be clear that the
2 objections to these three questions have been
3 sustained.

4 JUDGE McGUIRE: Okay. Then with that caveat,
5 we'll then proceed.

6 MR. OLIVER: We've actually been able to
7 advance the tape to the following question.

8 JUDGE McGUIRE: Okay.

9 (Whereupon, the videotape was played for the
10 record in open court.)

11 MS. MANNING: Your Honor, this is the final
12 portion of our 26-minute clip. It's approximately ten
13 more minutes and this will be from the April 12,
14 2001 transcript and include the following pages:
15 page 407, line 22 to page 408, line 19; page 416,
16 line 12 to page 416, line 22; page 419, line 10 to
17 page 419, line 17; page 419, line 25 to page 422,
18 line 21; page 423, line 12 to page 425, line 5;
19 page 425, line 15 to page 426, line 25.

20 (Whereupon, the videotape was played for the
21 record in open court.)

22 MS. MANNING: Your Honor, that's the last clip.
23 I don't think that that was entirely inclusive of all
24 the testimony that's been designated, so we're going to
25 take a look at that, and if we have something further,

1 we will submit that to you after discussing it with
2 respondent.

3 JUDGE McGUIRE: Okay. Fair enough.

4 Who do you intend to call on Tuesday,
5 Mr. Oliver?

6 MR. OLIVER: Your Honor, tomorrow morning we
7 intend to call Ms. Jackie Gross, formerly of Compaq,
8 now with Hewlett-Packard. And then tomorrow afternoon
9 we intend to call Mr. Gordon Kelley of IBM and a former
10 member of the JEDEC council and chairman of the JC-42
11 committee.

12 JUDGE McGUIRE: Anything else that we need to
13 pick up before we adjourn?

14 MR. OLIVER: Your Honor, we've mentioned that
15 one thing. We've obviously used a lot of exhibits
16 today. In light of our stipulation, we'd like to go
17 back and cross-check how many of those exhibits are
18 part of our stipulation and at a future point in time
19 move into evidence any remaining exhibits.

20 JUDGE McGUIRE: Okay. All right. Very good.
21 Just don't forget that. Okay?

22 MR. OLIVER: Yes.

23 JUDGE McGUIRE: Then it's been a long day,
24 everyone, but it's time we all go home.

25 I want you to pick up your hard copies. I've

1 C E R T I F I C A T I O N O F R E P O R T E R

2 DOCKET NUMBER: 9302

3 CASE TITLE: RAMBUS, INC.

4 DATE: May 19, 2003

5

6 I HEREBY CERTIFY that the transcript contained
7 herein is a full and accurate transcript of the notes
8 taken by me at the hearing on the above cause before
9 the FEDERAL TRADE COMMISSION to the best of my
10 knowledge and belief.

11

12 DATED: May 19, 2003

13

14

15

16 JOSETT F. HALL, RMR-CRR

17

18 C E R T I F I C A T I O N O F P R O O F R E A D E R

19

20 I HEREBY CERTIFY that I proofread the
21 transcript for accuracy in spelling, hyphenation,
22 punctuation and format.

23

24

25 DIANE QUADE

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