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FEDERAL TRADE COMMISSION
I N D E X (PUBLIC RECORD)

WITNESS:

Dr. Oh (Via deposition transcript)

1	<u>CX</u>	
2	Number 1983	4075
3	Number 1984	4071
4	Number 1995	4075
5	Number 1996	4075
6	Number 2008	4072
7	Number 2014	4076
8	Number 2237	4109
9	Number 2288	4109
10	Number 2289	4109
11	Number 2290	4109
12	Number 2294	4110
13	Number 2297	4110
14	Number 2306	4110
15	Number 2334	4110
16		
17	<u>RX</u>	
18	Number 9	4073
19	Number 2275	4111
20		
21	<u>JX</u>	
22	None	
23		
24	<u>DX</u>	
25	None	

1 UNITED STATES OF AMERICA
2 FEDERAL TRADE COMMISSION
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5 In the Matter of:)
6 Rambus, Inc.) Docket No. 9302
7 -----)

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9
10 Tuesday, June 3, 2003

11 11:00 a.m.
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14 **TRIAL VOLUME 21**

15 **PART 1**

16 **PUBLIC RECORD**
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18 BEFORE THE HONORABLE STEPHEN J. McGUIRE

19 Chief Administrative Law Judge

20 Federal Trade Commission

21 600 Pennsylvania Avenue, N.W.

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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 Any housekeeping tasks we need to take up this
5 morning?

6 MR. OLIVER: Good morning, Your Honor.

7 JUDGE McGUIRE: Good morning.

8 MR. OLIVER: First, I did want to thank you
9 very, very much for the very quick ruling with respect
10 to Dr. Oh that allows us to proceed this morning. The
11 one housekeeping matter, Your Honor, and I apologize
12 that I was not present the day the transcript of Mr.
13 Willie Meyer was presented, my understanding is that
14 there -- at that time the decision was made not to have
15 the court reporter actually transcribe while the video
16 was being played or while the transcripts were being
17 read.

18 My understanding is that Ms. Manning has raised
19 a FOIA issue, and frankly, she knows this issue better
20 than I do. I would ask if it would be possible for her
21 to address this issue briefly in order to bring this
22 issue to Your Honor's attention.

23 JUDGE McGUIRE: All right, yeah, go ahead.

24 MS. MANNING: Good morning, Your Honor.

25 JUDGE McGUIRE: Good morning.

1 MS. MANNING: When we had decided that we would
2 put the testimony, the designated testimony, as
3 exhibits, as an attachment to the transcript, it raised
4 certain issues with regard to FOIA, because under FOIA,
5 any type of exhibit is not disclosable unless the
6 person makes a FOIA request, and the transcripts are
7 actually available to the public at their request. So,
8 we ran into some issues with regard to how we had
9 previously done it under Schering and Chicago Bridge
10 where we put the testimony into the record and so it
11 was available for the public, and now we have realized
12 that there is an issue now that we are treating it a
13 little bit differently, so that's a concern with us.

14 What we have done is we have compiled all of
15 Mr. Vincent's --

16 JUDGE McGUIRE: I'm sorry, you've done what?

17 MS. MANNING: We have compiled all of Mr.
18 Vincent's testimony. We agreed that that's what took
19 place that day with a couple of exceptions, and we are
20 looking into trying to electronically attach it to the
21 transcript, to have that available, but we are not
22 certain that that can take place. So, in our view --
23 we have discussed this both with the court reporter and
24 with the other side. Because of the distinction
25 between exhibits and testimony, we do feel that it

1 should be reflected in the record, and we're willing to
2 do whatever we need to do to, you know, achieve that,
3 but it has raised some concerns.

4 JUDGE McGUIRE: Mr. Perry, do you want to
5 respond to that?

6 MR. PERRY: Your Honor, our concerns in the
7 past and I believe the court reporter the last time you
8 spoke to her, not this one but the other one, was that
9 there are undoubtedly going to be some small
10 distinctions or maybe large distinctions, we don't
11 know, between what's already been transcribed from
12 those depositions and what would be transcribed today,
13 and I can't imagine why there's any reason why an
14 electronic version of what has already been transcribed
15 can't be prepared as it has been for Mr. Meyer and Mr.
16 Vincent --

17 JUDGE McGUIRE: So, are you saying that we
18 should take -- in order to resolve this issue, are you
19 saying we should take the previous transcribed
20 testimony of Mr. Vincent and offer it somehow or -- I'm
21 not clear what you're saying, Mr. Perry.

22 MR. PERRY: Yes, that's what I'm suggesting.
23 That's what we were assuming would happen in that the
24 parties have designated various pieces of it, and that
25 will be prepared and will be the testimony that's in

1 the record.

2 Now, what I understand Ms. Manning to be saying
3 is that if it's an exhibit -- which it wasn't offered
4 as an exhibit --

5 JUDGE McGUIRE: It was an attachment, as I
6 recall.

7 MR. PERRY: It's an attachment, and therefore,
8 it can be an electronic attachment. It can be a PDF,
9 Your Honor.

10 JUDGE McGUIRE: Why can't that be accomplished?

11 MS. MANNING: We're not sure that can be
12 accomplished, but the way it stands right now is it
13 would have to be marked as an exhibit --

14 JUDGE McGUIRE: Why would it have to be marked
15 as an exhibit? It hasn't been entered as an exhibit.

16 MS. MANNING: Well, that's why --

17 JUDGE McGUIRE: I'm just asking you. You say
18 that with certainty. I'm not quite certain why that's
19 the case.

20 MS. MANNING: Because we are not sure we can
21 attach it electronically to the end of the transcript.
22 We cannot insert it now because of the pagination into
23 each place where it took place, so we have prepared it
24 electronically. We sent it to the court reporter
25 yesterday to see if it can be put in. It may be able

1 to be put into an ASCII transcript. We are just not
2 sure. It will not be able to be put into a Minuscript
3 transcript.

4 If that is not the case, then we will need to
5 offer this as an exhibit, because there really is no
6 other thing other than an exhibit. We can't just
7 append it to the transcript, because that puts
8 responsibility on the court reporter if it's only in
9 paper format.

10 JUDGE MCGUIRE: Well, I know when we first took

End of line 15 of 15 lines. This is the end of the transcript. The transcript is being made up of other 0 lines. psp4Tj-6 0

1 JUDGE McGUIRE: No, I don't intend to do that.
2 Has FTC talked to the court reporter --

3 MS. MANNING: We discussed this both with the
4 other side and with the court reporting agency, and
5 what was the problem was there were numerous
6 conversations going at the same time. When you were
7 speaking to the court reporter, we were also talking to
8 the court reporting agency about what had been done in
9 the past and what the procedure has been.

10 JUDGE McGUIRE: What's done in the past
11 apparently has no application here, because the
12 protocol that we've decided to follow in this case is
13 not what's been done in the past. So --

14 MS. MANNING: Right.

15 JUDGE McGUIRE: -- we have to deal with what we
16 have here.

17 You know, are you at an impasse? You can't --
18 you don't know -- are you looking to the Court for
19 guidance here?

20 MS. MANNING: Yes, as I expressed, we
21 previously within Schering and Chicago Bridge, we did
22 have the testimony recorded. We agreed with the other
23 side that we would make every effort to make sure it
24 was accurate. If there was some testimony that was
25 difficult, we would treat that differently, but that

1 would be our preference.

2 JUDGE McGUIRE: You're saying to go back
3 through this again and have it transcribed with this
4 court reporter, is that what you are saying?

5 MS. MANNING: No, for moving forward, Your
6 Honor.

7 JUDGE McGUIRE: I'm sorry?

8 MS. MANNING: For moving forward with any
9 further designations that we would do it in the way
10 that we had done in the past.

11 JUDGE McGUIRE: Okay, Mr. Perry, go ahead.

12 MR. PERRY: Well, I don't think that the past
13 binds us in any way. We ought to do what's right
14 moving forward, and particularly with some of these
15 witnesses -- and we'll see in Dr. Oh's case -- are
16 very
17 difficult to understand, and I think that was raised by
18 the testimony with respect to Mr. Meyer as well with a
19 German accent.

20 I really don't think that someone sitting here
21 miles away from the speaker is going to do as good a
22 job as someone who was in the room and able to talk to
23 the witness about spellings and whatnot, and I think
24 that the transcript is going to be a problem when we
25 get it. We're just creating a whole lot of unnecessary
26 work.

1 JUDGE McGUIRE: I agree. I mean, I think it's
2 terribly confusing, and I still am not clear as to why
3 the FTC cannot append somehow the previous transcript
4 to whatever we have to do to make it good under FOIA.
5 I mean, is that -- I don't quite understand -- I'm not
6 being critical. I'm just trying to understand as to
7 how come you can't employ that device.

8 MS. MANNING: No, I understand, Your Honor, and
9 perhaps we should defer to the court reporter, because
10 we raised that as trying to solve those with Mr. Meyer
11 and Mr. Vincent's testimony, was that's something that
12 we could do in order to meet the public disclosure
13 requirements, and we don't know. We have asked, and
14 they don't know.

15 JUDGE McGUIRE: Why don't you all I guess
16 confer on this further, and when you hopefully reach
17 some sort of understanding as to what is doable and
18 what's not doable, then we'll take this up again, but
19 that's certainly my preference as to how I would like
20 to I think proceed, because I think to do it otherwise,
21 as has been done in CBI and I guess Schering, is
22 terribly confusing, and I think it's going to cause
23 more problems than not.

24 So, I appreciate the concern at this point, and
25 why don't we see, you know, what can be done in the

1 interim, and then if we still have a problem with it,
2 you know, we'll take it up again and see what we can
3 do.

4 Mr. Perry, to the extent you should have some
5 input on this, please feel free with opposing counsel
6 and the court reporter, and let's see if we can get
7 this worked out.

8 MR. PERRY: Thank you.

9 MS. MANNING: Okay, and we would --

10 MR. OLIVER: Thank you, Your Honor.

11 MS. MANNING: -- we would like to just
12 basically try to wrap up as best as we could Mr.
13 Vincent's testimony, so we have some exhibits that we
14 would like admitted into the record, if we could just
15 do that.

16 JUDGE McGUIRE: Okay, that's --

17 MR. STONE: We're ready.

18 MS. MANNING: CX-1984.

19 MR. STONE: No objection.

20 JUDGE McGUIRE: Entered.

21 (CX E b N b 1984 a a)
22 c .)

23 MS. MANNING: CX-2008.

24 MR. STONE: No objection.

25 JUDGE McGUIRE: Entered.

1 (CX E b N b 2008 a a
2 c .)

3 MS. MANNING: CX-1977.

4 MR. STONE: No objection.

5 JUDGE McGUIRE: Entered.

6 (CX E b N b 1977 a a
7 c .)

8 MS. MANNING: CX-1938.

9 MR. STONE: No objection.

10 JUDGE McGUIRE: Entered.

11 (CX E b N b 1938 a a
12 c .)

13 MS. MANNING: CX -1939.

14 MR. STONE: No objection.

15 JUDGE McGUIRE: Entered.

16 (CX E b N b 1939 a a
17 c .)

18 MS. MANNING: CX-1943.

19 MR. STONE: No objection.

20 JUDGE McGUIRE: Entered.

21 (CX E b N b 1943 a a
22 c .)

23 MS. MANNING: CX-1956.

24 MR. STONE: No objection.

25 JUDGE McGUIRE: Entered.

1 (CX E b N b 1956 a a
2 c .)

3 MS. MANNING: CX-1926.

4 MR. STONE: No objection.

5 JUDGE McGUIRE: Entered.

6 (CX E b N b 1926 a a
7 c .)

8 MS. MANNING: CX-1933.

9 MR. STONE: No objection.

10 JUDGE McGUIRE: Entered.

11 (CX E b N b 1933 a a
12 c .)

13 MS. MANNING: CX-207A.

14 MR. STONE: No objection.

15 JUDGE McGUIRE: Entered.

16 (CX E b N b 207A a a
17 c .)

18 MS. MANNING: RX-9.

19 MR. STONE: No objection.

20 JUDGE McGUIRE: Entered.

21 (RX E b N b 9 a a
22 c .)

23 MS. MANNING: CX-206.

24 MR. STONE: No objection.

25 JUDGE McGUIRE: Entered.

1 (CX E b N b 1983 a a
2 c .)

3 MS. MANNING: CX-1973.

4 MR. STONE: No objection.

5 JUDGE McGUIRE: Entered.

6 (CX E b N b 1973 a a
7 c .)

8 MS. MANNING: CX-1996.

9 MR. STONE: No objection.

10 JUDGE McGUIRE: Entered.

11 (CX E b N b 1996 a a
12 c .)

13 MS. MANNING: CX-1995.

14 MR. STONE: That document, we have no objection
15 to its admission, but it needs to be afforded in camera
16 treatment consistent with the Court's prior ruling.

17 JUDGE McGUIRE: All right, so noted. Entered.

18 (CX E b N b 1995 a a
c .)

1 MR. STONE: No objection.

2 JUDGE McGUIRE: Entered.

3 (CX E b N b 890 a a
4 c .)

5 MS. MANNING: CX-2014.

6 MR. STONE: No objection.

7 JUDGE McGUIRE: Entered.

8 (CX E b N b 2014 a a
9 c .)

10 MS. MANNING: For the record, we inadvertently
11 omitted a couple of passages from Mr. Vincent's
12 designations, and we would just like to read the
13 citations into the record so that --

14 JUDGE McGUIRE: Mr. Stone, any objection to
15 that?

16 MR. STONE: No, Your Honor.

17 (D c .)

18 JUDGE McGUIRE: Okay, let's proceed with the
19 ongoing designations of Mr. Vincent.

20 MS. MANNING: Okay, we would like the record to
21 reflect that Mr. Vincent's designations should include
22 testimony from April 11, 2001, page 299, line 5,
23 through page 302, line 3.

24 From April 11th, 2001, page 323, line 6,
25 through page 323, line 15.

1 now completed with the third-party depositions that
2 complaint counsel intend to offer with the exception of
 Reese Brown, who we still have to do, which raises some

1 objections, and the objections are more in the nature
2 of the types of objections you'd hear us make during
3 trial, but the volume of the transcripts is -- there is
4 no question is enormous.

5 I think the total volume of the transcripts
6 from which designations have been made so far must fill
7 two boxes. I know Mr. Karp that we did over the
8 weekend was five -- six days of testimony from Mr.
9 Karp. So, there's been a lot of testimony and a lot of
10 it has been designated.

11 The objection part may get easier in the sense
12 that the objections aren't -- don't go to the same kind
13 of maybe as difficult issues --

14 JUDGE McGUIRE: Right, not hearsay, but perhaps
15 they're leading in nature or something.

16 MR. STONE: But the volume of objections,
17 although certainly less with many of these witnesses
18 and we have tried to conform -- at least on our part
19 tried to conform our objections to how you've ruled
20 during the course of the trial, there still is going to
21 be quite a few of those objections, and I do -- it
22 takes me back to the point we talked about earlier,
23 which is about how to do the depositions.

24 I remain of the view that we should look for
25 some other way to simplify the presentation of

1 deposition testimony, because otherwise, we do have
2 several more days of the testimony either being read or
3 played.

4 JUDGE McGUIRE: Well, that's an issue unto
5 itself. I mean, my concern is how am I at this point
6 to deal with any objections to certain excerpts, and
7 you know, I -- as you know, I mean, you all have been
8 doing this as well, this takes a long time to go
9 through this, for you to go through it on the one hand
10 and decide whether you want to object and then for
11 their side to respond and then for me to go through all
12 that and issue determinations on each and every
13 excerpt.

14 Is there a better way for us to do this? I
15 mean, because from what I'm hearing now, I'm going to
16 be engaged in this exercise now for the next several
17 weeks, and I'm not sure I have the time and the staff
18 at this point to engage in that activity.

19 MR. STONE: I share your concern with that.
20 One possibility was if instead of the transcripts then
21 being read a second time in open court, we simply gave
22 you the transcripts that have been marked, you ruled on
23 the objections as you went. You read the transcript,
24 ruled as you went, handed the transcript back to us
25 with your ruling marked in the margin, and we didn't

1 then read the transcript a second time, and we would
2 reduce that. You would get the transcript once, you
3 would read through it, and you'd rule in the margins,
4 and we'd know. That's one possibility.

5 I guess the other one is to tell us -- and to
6 some extent we've done this, but I guess you could push
7 us on it more -- to try to resolve some of those
8 objections on our own so we don't have this many to
9 present to you.

JUDGE McGUIREs 0 TEnthe margins, musly.Waldor

1 that out, because this is going to take the Court hours
2 upon hours of time outside of my hours in the court
3 every day, and it's going to be a tough task that may
4 slow up the hearing, and I'd just as soon not have to
5 go through that to the same extent I've had to go
6 through it on Dr. Oh.

7 Mr. Oliver?

8 MR. OLIVER: Yes, Your Honor, if I could just
9 respond to a couple of different issues.

10 First of all, with respect to the presentation
11 aspect, we do think that with respect to a number of
12 the Rambus employees and agents, particularly those
13 that aren't called live and appear live, it may not be
14 necessary to actually read or present their deposition
15 testimony in court. We do expect, though, that there
16 will be probably at least one or two that we will want
17 to do, and in addition, if they choose not to call any
18 individuals, we may then want to come back and present
19 that deposition testimony live as well.

20 Your Honor, frankly, we do share the concern
21 and certainly the frustration as well. We do think
22 that the number of objections has been far, far higher
23 with respect to the deposition testimony than it has
24 been with respect to the testimony in open court.

25 The one thing that we did propose initially

1 that I'd like to come back is the possibility of simply
2 dealing with objections on the fly as we go. That is
3 what we did with respect to Mr. Vincent, and I noted
4 that there were many more objections noted in the
5 margin of the transcripts than counsel actually raised
6 during the course of the reading.

7 JUDGE McGUIRE: Yes.

8 MR. OLIVER: And I think that first of all
9 serves as a restraint on us to keep the restraint -- to
10 keep the objections to a minimum, keep them to the
11 serious objections.

12 JUDGE McGUIRE: I think that's a good idea. I
13 think that's one the Court would prefer. I would
14 rather just rule on them in Open Court as we go. It
15 would make it a lot easier on me and perhaps the
16 parties as well. That way you don't have to draft up,
17 you know, your briefs, again going through it line by
17

1 MR. STONE: I just think with -- I think sort
2 of the core issues like were raised to some extent by
3 Dr. Oh and Mr. Brown's testimony, I think to the extent
4 those issues were properly briefed so you have a brief
5 to consider, I think we're past that point. I think
6 the objections that were made --

7 JUDGE McGUIRE: Right, I agree. And again, you
8 are not always going to agree with what I do. You
9 know, some you are going to win, others you won't,
10 but --

11 MR. STONE: Right.

12 JUDGE McGUIRE: -- my -- I tried to put out
13 there the standard that I was going to employ, and that
14 will certainly be the standard in the future, and I try
15 to -- my best to avoid just raw hearsay. It's not
16 coming in in this proceeding. If I can ID it and be on
17 top of it, then I am going to exclude it, and you know,
18 testimony needs to have a properly laid foundation.
19 These are just inherent rules of trial practice.

20 So, if we can adhere to those, I think that
21 would make it whole lot easier, but I think that's the
22 way to go, just as we proceed.

23 MR. STONE: I think that's fine, Your Honor.
24 The only other issue, I guess is we did file a brief on
25 the use of Mr. Karp's testimony --

1 JUDGE McGUIRE: Yeah, I saw that.

2 MR. STONE: -- from a different proceeding, and
3 that's the kind of issue on which I think you might
4 want a brief from them in order to resolve it.

5 JUDGE McGUIRE: But there you are talking about
6 other issues pretty much, aren't you?

7 MR. STONE: Yes, they aren't the overarching --

8 JUDGE McGUIRE: But that's not the same thing
9 we've seen with Dr. Oh.

10 MR. STONE: No.

11 JUDGE McGUIRE: Okay, I've seen that, and I
12 have no problem with that.

13 To the extent that we have an understanding on
14 that, that's how we'll proceed, and again, I urge the
15 parties to confer and see to the extent that -- and I
16 think consistent with perhaps the standards I've put
17 forth in the order on Dr. Oh, let's try to follow that,
18 and hopefully we'll expedite this proceeding in that
19 regard.

20 MR. OLIVER: Thank you, Your Honor.

21 JUDGE McGUIRE: Let me ask you, Mr. Stone, as
22 you know, I received the motion for a protective order
23 from third party Micron. I assume you intend to file a
24 response to that?

25 MR. STONE: Yes, Your Honor.

1 JUDGE McGUIRE: Do you have some idea when I
2 might receive it? There is no big rush, but --

3 MR. STONE: We might be able to -- certainly by
4 Monday, I think.

5 JUDGE McGUIRE: Okay, okay.

6 MR. STONE: I think certainly by Monday.

7 JUDGE McGUIRE: The only other thing I want to
8 take up, I had advised everyone that next Friday, June
9 13th, I had an obligation which would only give us an
10 opportunity to have a hearing for half a day. I have
11 since had that resolved, so we will be in trial all day
12 on that Friday, June 13th.

13 Okay, does that take care of everything?

14 MR. OLIVER: Yes, Your Honor.

15 JUDGE McGUIRE: All right, then Mr. Oliver, at
16 this point, you may proceed.

17 MR. OLIVER: Thank you, Your Honor. Your
18 Honor, I would like to just give you a brief overview
19 of today's schedule in order to give you an idea of
20 what's coming. We had originally put together a set of
21 video clips for Dr. Oh that total about five hours.
22 That is why I requested a start time today of 11:00 to
23 ensure we could finish that.

24 Based on your rulings, I think the total volume
25 of video clips is now something less than three and a

1 half hours, to give you an idea of the time scope we're
2 dealing with today.

3 In addition, as you will see, Dr. Oh is, of
4 course, a native of Korea. English is not his first
5 language. As a result, there are times when he's a
6 little bit difficult to understand, and he is very
7 slow. Frankly, we probably could do this more quickly
8 if we read it.

9 I was going to suggest we start playing the
10 video, and at any point if you decide you'd prefer for
11 us to read, we can switch to reading.

1 to two and a half hours.

2 JUDGE McGUIRE: Well, that's a no-brainer it
3 seems to me.

4 MR. OLIVER: Okay.

5 JUDGE McGUIRE: Why don't we do that. Why
6 don't we proceed on that basis.

7 MR. OLIVER: If you could give us just a moment
8 to do this, Your Honor.

9 **(Pa c)**

10 MR. OLIVER: Actually, Your Honor, one other
11 logistical issue. If we are reading the transcript, we
12 do have the possibility of bringing the exhibits up on
13 the screen. Would you prefer that to having paper
14 copies?

15 JUDGE McGUIRE: Mr. Stone, any response to
16 that?

17 MR. STONE: Oh, I think whichever you prefer is
18 absolutely fine.

19 JUDGE McGUIRE: I would prefer it on the screen
20 if that's easier.

21 MR. OLIVER: We're just trying to figure out
22 which personnel we need and which computers we need,
23 how we need to use the computers.

24 JUDGE McGUIRE: Okay, go ahead and confer.

25 **(Pa c)**

1 JUDGE McGUIRE: Mr. Oliver, you may proceed.

2 MR. OLIVER: Thank you.

3 May Melissa Kassier take the stand to read the
4 part of Dr. Oh?

5 JUDGE McGUIRE: Please, please do.

6 MR. STONE: I must say, we're looking forward
7 to the accent on this one.

8 JUDGE McGUIRE: Obviously someone knew that we
9 were going to be doing this today. I see a very empty
10 courtroom.

11 MR. OLIVER: Your Honor, before we proceed, I
12 do just want to clarify one other point for the record.
13 I assume that the original marked-up transcript of Dr.
14 Oh as originally designated would be included in the
15 record. So, in other words, the portions of the
16 testimony that were designated and then subsequently
17 excluded pursuant to objection would still be included
18 as part of the record?

19 JUDGE McGUIRE: Mr. Stone, any objection?

20 MR. STONE: I think the portions that they
21 offered to which an objection was sustained should be
22 included in the record so the record is clear.
23 Obviously it couldn't be cited in support of findings,
24 but it should be there for review just as any other
25 testimony that's offered and then objections sustained

1 as part of the record.

2 JUDGE McGUIRE: How do you want to have that
3 marked, as a proposed exhibit or just go ahead and mark
4 it as a CX exhibit and then not enter it or -- I mean,
5 I can preserve it in the record if that's what
6 you're --

7 MR. OLIVER: I mean, I think we could cite the
8 CX or could cite the transcript as a CX exhibit that
9 would be included in the record.

10 JUDGE McGUIRE: You mean included -- you mean
11 entered in the record as an exhibit or as just
12 something that's marked for the record and preserved in
13 case of appeal?

14 MR. OLIVER: It would be marked and preserved,
15 although my understanding is that would also be
16 included in what is sent to the Commission.

17 JUDGE McGUIRE: Right, it would be preserved is
18 what I'm calling that. It wouldn't be entered into
19 this record, but it's still a part of the overall
20 record. It's just not what I call being entered into
21 the record, but it is still maintained in the case
22 file, and it would go up to the Commission if they
23 chose to go into it.

24 MR. OLIVER: Yes, Your Honor, that is what I
25 was referring to.

1 JUDGE McGUIRE: Okay.

2 MR. STONE: And that's my understanding, just
3 like an exhibit that was offered and --

4 JUDGE McGUIRE: Right, but not entered.

5 MR. STONE: -- not entered, it would be part of
6 the record.

7 JUDGE McGUIRE: Right, right, that's what I
8 understand as well.

9 MR. OLIVER: Okay, thank you, Your Honor. We
10 wish to start with Volume 1 of Dr. Oh's transcript from
11 January 8, 2003, and the first reading will be at page
12 8, line 13.

13 JUDGE McGUIRE: Okay, Mr. Oliver, just let me
14 interject again now, is this going to be on the screen
15 again, this -- or do I need to have a hard copy of the
16 deposition?

17 MR. OLIVER: I apologize, Your Honor. May I
18 approach?

19 JUDGE McGUIRE: Yes. Thank you.

20 Okay, go ahead.

21 MR. OLIVER: And I should also mention, after I
22 designate the section in each case, we will try to
23 indicate any appropriate rulings, whether they have
24 been sustained or overruled, and then pause to give
25 opposing counsel a chance to double-check what I've

1 done. Again, we very much appreciate your very quick
2 ruling on this. Obviously we have been working very
3 quickly to try to incorporate your ruling into what we
4 are designating, and I just want to be certain I do not
5 make any mistakes.

6 JUDGE McGUIRE: Okay.

7 MR. OLIVER: The first segment is in Volume 1,
8 page 8, line 13, to page 9, line 9, and I believe that
9 there are no objections to this portion of the
10 testimony.

11 (T a c . . . a . . . c . . .)

12 MR. OLIVER: The next portion of the transcript
13 runs from page 11, line 3, to page 17, line 24.

14 (T a c . . . a . . . c . . .)

15 MR. OLIVER: The next portion of the transcript
16 that has been designated runs from page 18, line 13, to
17 page 20, line 25.

18 (T a c . . . a . . . c . . .)

19 MR. OLIVER: The next portion of the transcript
20 runs from page 23, line 3, to page 24, line 15.

21 (T a c . . . a . . . c . . .)

22 MR. OLIVER: The next portion of the transcript
23 that has been designated runs from page 25, line 12, to
24 page 25, line 17.

25 (T a c . . . a . . . c . . .)

1 MR. OLIVER: The next portion of the transcript
2 runs from page 26, line 2, to page 26, line 7.

1 If he just wants to skip it and keep going, that's fine
2 with me.

3 JUDGE McGUIRE: Good. Thank you, Mr. Stone.

4 MR. OLIVER: The next portion of the transcript
5 designated runs from page 33, line 19, to page 36, line
6 5.

7 (T a c k , a , c . .)

8 MR. OLIVER: The next designation ran from page
9 37, line 9, to page 39, line 1. My notes indicate that
10 the objection to this portion was sustained.

11 The designation runs from line -- excuse me,
12 page 39, line 13, to page 39, line 21. My notes
13 indicate that the objections to this portion were
14 overruled.

15 (T a c k , a , c . .)

16 JUDGE McGUIRE: Just let me interject. On
17 those excerpts where I've sustained the objection, do
18 we need to go into that during this? I'll be happy to
19 do that if you think it will help preserve that for the
20 record, Mr. Stone, but we have the order.

21 MR. STONE: Right, I do not believe --

22 JUDGE McGUIRE: Do we need -- we don't need to
23 address that, then, do we?

24 MR. STONE: No, I don't believe we do, unless
25 there's a question as to how the order applies or

1 something. I don't think we need to raise that.

2 JUDGE McGUIRE: Okay, good.

3 Okay, Mr. Oliver, do you understand?

4 MR. OLIVER: Yes. There are a few places in
5 which a portion of a designation was covered by
6 objection and sustained, and I would suggest that I
7 read that just so that we and opposing counsel are on
8 the same page just to have an understanding of which
9 portions should be read in and which portions should be
10 left out.

11 JUDGE McGUIRE: Only in those cases where it's
12 not clear or I mean --

13 MR. OLIVER: Only in places where a portion of
14 the designation is affected.

15 JUDGE McGUIRE: Okay, all right.

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

17 JUDGE McGUIRE: Yes.

18 MR. OLIVER: The next designation runs from
19 page 45, line 4, to page 46, line 4.

20 (T a c k , . . . a , . . . c . . .)

21 MR. OLIVER: The next designation runs from
22 page 47, line 11, to page 48, line 15.

23 (T a c k , . . . a , . . . c . . .)

24 MR. OLIVER: Actually, Your Honor, would it be
25 helpful at this point to have a page reference to the

1 document?

2 JUDGE McGUIRE: Probably. If you want to give
3 it to me, you might want as well give me a page
4 reference.

5 MR. OLIVER: Your Honor, this is page
6 CX-2288-113.

7 JUDGE McGUIRE: Okay.

8 (T a c k , a , c . . .)

9 MR. OLIVER: The next designation runs from
10 page 48, line 16, to page 48, line 20.

11 (T a c k , a , c . . .)

12 MR. OLIVER: The next designation runs from
13 page 52, line 18, to page 54, line 13.

14 MR. STONE: And in light of the prior ruling,
15 we withdraw that.

16 MR. OLIVER: Your Honor, if I could have just a
17 moment to confer with opposing counsel.

18 JUDGE McGUIRE: Sure.

19 (C . . . c . . .)

20 MR. OLIVER: The next designation begins at
21 page 53, line 10, and runs through page 54, line 13.

22 (T a c k , a , c . . .)

23 MR. OLIVER: The next designation originally
24 ran from page 55, line 2, to page 57, line 13. I
25 propose to read from page 55, line 2, through page 56,

1 line 14.

2 (T a c . . . a . . . c . . .)

3 MR. OLIVER: The next portion runs from page
4 58, line 8, to page 59, line 7.

5 (T a c . . . a . . . c . . .)

6 MR. OLIVER: The next designation runs from
7 page 60, line 14, to page 61, line 22.

8 (T a c . . . a . . . c . . .)

9 MR. OLIVER: The next designation runs from
10 page 62, line 2, to page 62, line 6.

11 (T a c . . . a . . . c . . .)

12 MR. OLIVER: The next designation runs from
13 page 62, line 10, to page 62, line 24.

14 (T a c . . . a . . . c . . .)

15 MR. OLIVER: The next designation runs from
16 page 63, line 7, to page 63, line 25.

17 (T a c . . . a . . . c . . .)

18 MR. OLIVER: The next portion runs from page
19 64, line 23, to page 65, line 1.

20 (T a c . . . a . . . c . . .)

21 MR. OLIVER: The next designation runs from
22 page 65, line 22, to page 66, line 14.

23 (T a c . . . a . . . c . . .)

24 MR. OLIVER: The next segment is on page 68,
25 from line 11 to line 12.

1 (T a c k a c)

2 MR. OLIVER: The next segment runs from page
3 69, line 2, to page 69, line 10.

4 (T a c k a c)

5 MR. OLIVER: The next segment runs from page
6 70, line 11, to page 74, line 3.

7 May I approach?

8 JUDGE McGUIRE: Yes. You know, let me just
9 add, Mr. Oliver, if it's going to be on the screen,
10 then I don't need the hard copy. Now, if there's
11 anything else in the hard copy that won't be on the
12 screen, then I'll be happy to take it, but I can see it
13 just as well on the screen. It's going to help
14 expedite you having to come up and back all the time,
15 so I'll leave that up to you.

16 MR. OLIVER: Yes, Your Honor, I think we can do
17 it on the screen.

18 JUDGE McGUIRE: Okay, good, thanks.

19 MR. OLIVER: This is the segment running from
20 page 70, line 11, to 74, line 3.

21 (T a c k a c)

22 MR. OLIVER: The next segment runs from page
23 75, line 4, to page 77, line 7.

24 (T a c k a c)

25 MR. OLIVER: The next segment runs from page

1 78, line 12, to page 78, line 25.

2 (T a c , a , c .)

3 JUDGE McGUIRE: Hold it, where are we, Mr.
4 Oliver?

5 MR. OLIVER: I'm sorry, I apologize, Your
6 Honor.

7 JUDGE McGUIRE: Okay.

8 MR. OLIVER: The next segment runs from page
9 84, line 21, through page 85, line 6.

10 (T a c , a , c .)

11 MR. OLIVER: The next segment runs from page
12 91, line 12, to page 92, line 6.

13 (T a c , a , c .)

14 MR. OLIVER: The next segment runs from page
15 94, line 11, through page 96, line 21.

16 (T a c , a , c .)

17 MR. OLIVER: The next section runs from page
18 99, line 5, through 99, line 23.

19 (T a c , a , c .)

20 MR. OLIVER: The next designation runs from
21 page 103, line 11, to 103, line 13.

22 (T a c , a , c .)

23 MR. OLIVER: The next designation runs from
24 page 103, line 20, to 105, line 19.

25 (T a c , a , c .)

1 MR. OLIVER: The next section runs from page
2 106, line 2, to page 106, line 10.

3 (T a c , a , c . .)

4 MR. OLIVER: The next designation is from page
5 109, line 3, to page 109, line 7.

6 (T a c , a , c . .)

7 MR. OLIVER: The next designation runs from
8 page 109, line 23, through page 110, line 19.

9 (T a c , a , c . .)

10 MR. OLIVER: The next segment runs from page
11 111, line 4, to page 115, line 9.

12 (T a c , a , c . .)

13 MR. OLIVER: The next segment runs from page
14 115, line 21, to page 117, line 25.

15 (T a c , a , c . .)

16 MR. OLIVER: The next segment runs from page
17 118, line 22, to page 120, line 3.

18 (T a c , a , c . .)

19 MR. OLIVER: The next segment runs from page
20 122, line 25, to page 123, line 23.

21 (T a c , a , c . .)

22 MR. OLIVER: The next segment runs from page
23 124, line 8, to page 124, line 19.

24 (T a c , a , c . .)

25 MR. OLIVER: The next segment runs from page

1 125, line 3, to 125, line 5.

2 (T a c . . . a . . . c . . .)

3 MR. OLIVER: The next segment runs from page
4 125, line 17, to 125, line 24.

5 (T a c . . . a . . . c . . .)

6 MR. OLIVER: The next segment runs from page
7 127, line 3, to page 129, line 9.

8 (T a c . . . a . . . c . . .)

9 MR. OLIVER: The next designation runs from
10 page 135, line 23, to page 138, line 4.

11 (T a c . . . a . . . c . . .)

12 MR. OLIVER: The next segment relates to
13 objections that were sustained in part and overruled in
14 part, and therefore, I propose to read from page 140,
15 line 2, to page 143, line 4.

16 (T a c . . . a . . . c . . .)

17 MR. OLIVER: Your Honor, the next designation
18 runs from page 147, line 3, to page 149, line 1.

19 (T a c . . . a . . . c . . .)

20 MR. OLIVER: Your Honor, at this point I think
21 we're probably about halfway through. Would this be a
22 suitable place to break for lunch?

23 JUDGE McGUIRE: Sure. How much time do you all
24 want to take today? An hour?

25 MR. STONE: An hour is plenty. We can do it in

1 a little less if you want.

2 JUDGE McGUIRE: Do you want 45 minutes?

3 MR. OLIVER: That would be fine, Your Honor.

4 JUDGE McGUIRE: It's five to 1:00. Why don't
5 we meet back here at 20 until 2:00. We're adjourned,
6 in recess.

7 (W. . . . , a 12:55 . . . , a . . . c . . . c . . . a
8 a)

AFTERNOON SESSION**(1:40 . . .)**

JUDGE McGUIRE: This hearing is now in order.

Then Mr. Oliver, you may proceed.

MR. OLIVER: Thank you, Your Honor.

Your Honor, this morning, I skipped over one designation that I omitted to read, and I'd like to go back and pick that up if I could, please.

JUDGE McGUIRE: Go ahead.

MR. OLIVER: Beginning at page 143, line 5, and continues to page 144, line 6.

(T a c k , . . . a . . . c . . .)

MR. OLIVER: The next designation is on page 149, line 19, and that would then run through page 150, line 24. We had just left off discussing Exhibit 8, which we can bring up on the screen.

(T a c k , . . . a . . . c . . .)

MR. OLIVER: The next designation is from page 154, line 10, through 155, line 5.

(T a c k , . . . a . . . c . . .)

MR. OLIVER: The next designation runs from page 157, line 11, through 160, line 13.

(T a c k , . . . a . . . c . . .)

MR. OLIVER: The next designation runs from page 163, line 19, to page 164, line 12.

1 (T a c k a c . . .)

2 MR. OLIVER: The next designation is from page
3 168, line 17, through page 169, line 3.

4 (T a c k a c . . .)

5 MR. OLIVER: The next designation runs from
6 page 173, line 7, through 173, line 23.

7 (T a c k a c . . .)

8 MR. OLIVER: Your Honor, that finishes Volume 1
9 of the transcript of Dr. Oh. We now move to Volume 2.

10 The first designation is from page 198, line
11 20, to 198, line 23.

12 (T a c k a c . . .)

13 MR. OLIVER: The next designation runs from
14 page 202, line 19, to page 205, line 24.

15 (T a c k a c . . .)

16 MR. OLIVER: The next designation is page 211,
17 line 5, to page 211, line 24.

18 (T a c k a c . . .)

19 MR. OLIVER: The next designation is on page
20 215, line 3, to page 215, line 10.

21 (T a c k a c . . .)

22 MR. OLIVER: The next designation is page 221,
23 line 16, to page 222, line 1.

24 I'm sorry, hold on just a moment, please, Your
25 Honor.

1 MR. OLIVER: Page 240, line 20, to page 241,
2 line 6.

3 (T a c , , a , , c . .)

4 MR. OLIVER: The next designation is page 241,
5 line 19, to page 242, line 20.

6 (T a c , , a , , c . .)

7 MR. OLIVER: Next designation is page 242, line
8 25, to page 243, line 7.

9 (T a c , , a , , c . .)

10 MR. OLIVER: The next designation is page 243,
11 line 17, to page 244, line 5.

12 (T a c , , a , , c . .)

13 MR. OLIVER: The next designation is page 248,
14 line 2, to page 248, line 15.

15 (T a c , , a , , c . .)

16 MR. OLIVER: The next designation is from page
17 248, line 18, to page 250, line 4.

18 (T a c , , a , , c . .)

19 MR. OLIVER: The next designation, page 251,
20 line 22, to page 252, line 11.

21 (T a c , , a , , c . .)

22 MR. OLIVER: The next designation is page 254,
23 line 9, to page 254, line 22.

24 (T a c , , a , , c . .)

25 MR. OLIVER: The next designation is page 257,

1 line 5, to 258, line 18.

2 (T a c . . . a . . . c . . .)

3 MR. OLIVER: The next designation is page 265,
4 line 12, to page 265, line 18.

5 (T a c . . . a . . . c . . .)

6 MR. OLIVER: The next designation is page 268,
7 line 5, to 268, line 16.

8 (T a c . . . a . . . c . . .)

9 MR. OLIVER: The next designation is page 268,
10 line 25, to page 269, line 13.

11 (T a c . . . a . . . c . . .)

12 MR. OLIVER: The next designation is page 270,
13 lines 2 and 3.

14 (T a c . . . a . . . c . . .)

15 MR. OLIVER: The next designation is page 271,
16 line 13, to page 172, line 4.

17 (T a c . . . a . . . c . . .)

18 MR. OLIVER: The next designation is page 272,
19 line 12, to 272, line 19.

20 (T a c . . . a . . . c . . .)

21 MR. OLIVER: The next designation is page 274,
22 line 20, to page 278, line 5.

23 (T a c . . . a . . . c . . .)

24 MR. OLIVER: The next designation is page 283,
25 line 10, to 283, line 13.

1 (T a c , a , c .)

2 MR. OLIVER: The next designation, page 285,
3 line 12, to page 287, line 14.

4 (T a c , a , c .)

5 MR. OLIVER: The next designation is page 287,
6 line 21, through page 289, line 20.

7 (T a c , a , c .)

8 MR. OLIVER: The next designation is page 292,
9 line 3, to page 294, line 16.

10 (T a c , a , c .)

11 MR. OLIVER: The next designation is page 295,
12 line 9, to page 296, line 3.

13 (T a c , a , c .)

14 MR. OLIVER: The next designation is page 303,
15 line 13, to 303, line 21.

16 (T a c , a , c .)

17 MR. OLIVER: The next designation is page 321,
18 line 17, to page 322, line 22.

19 (T a c , a , c .)

20 MR. OLIVER: The next designation is page 372,
21 line 2, to page 372, line 11.

22 (T a c , a , c .)

23 MR. OLIVER: The final designation is on page
24 372, line 24, to page 373, line 3.

25 (T a c , a , c .)

1 MR. OLIVER: Your Honor, that concludes the
2 reading of the designated portions of Dr. Oh's
3 transcript. At this time, I would like to move a
4 number of exhibits into evidence.

5 JUDGE McGUIRE: Okay.

6 MR. OLIVER: First is CX-2237.

7 MR. STONE: No objection.

8 JUDGE McGUIRE: Entered.

9 (CX E b N b 2237 a a
10 c .)

11 MR. OLIVER: CX-2288.

12 MR. STONE: No objection.

13 JUDGE McGUIRE: Entered.

14 (CX E b N b 2288 a a
15 c .)

16 MR. OLIVER: CX-2289.

17 MR. STONE: No objection.

18 JUDGE McGUIRE: Entered.

19 (CX E b N b 2289 a a
20 c .)

21 MR. OLIVER: CX-2290.

22 MR. STONE: No objection.

23 JUDGE McGUIRE: Entered.

24 (CX E b N b 2290 a a
25 c .)

1 MR. OLIVER: CX-1612.

2 MR. STONE: No objection.

3 JUDGE McGUIRE: Entered.

4 (CX E b N b 1612 a a
5 c .)

6 MR. OLIVER: CX-2294.

7 MR. STONE: No objection.

8 MR. McGUIRE: Entered.

9 (CX E b N b 2294 a a
10 c .)

11 MR. OLIVER: CX-2297.

12 MR. STONE: No objection.

13 JUDGE McGUIRE: Entered.

14 (CX E b N b 2297 a a
15 c .)

16 MR. OLIVER: CX-2306.

17 MR. STONE: No objection.

18 JUDGE McGUIRE: Entered.

19 (CX E b N b 2306 a a
20 c .)

21 MR. OLIVER: CX-2334.

22 MR. STONE: No objection.

23 JUDGE McGUIRE: Entered.

24 (CX E b N b 2334 a a
25 c .)

1 MR. STONE: Your Honor, we also then move in
2 RX-2275.

3 MR. OLIVER: No objection.

4 JUDGE McGUIRE: So entered.

5 (RX E b N b 2275 a a
6 c .)

7 MR. STONE: And we agree that Dr. Oh can be
8 excused and given a couple of days off.

9 JUDGE McGUIRE: Thank you very much.

10 MR. OLIVER: We agree that Dr. Oh could be
11 excused.

12 JUDGE McGUIRE: Let's see, Mr. Oliver, how did
13 you intend -- is there anything else you had on tap for
14 this afternoon?

15 MR. OLIVER: No, Your Honor. We had thought
16 that Dr. Oh could take the entire day.

17 JUDGE McGUIRE: All right, good. Then tell me
18 what you have planned for Wednesday again.

19 MR. OLIVER: Yes, Your Honor, tomorrow the
20 witness will be Mr. Brian Shirley of Micron.

21 JUDGE McGUIRE: Okay, very good. We will
22 convene here tomorrow morning at 9:30 a.m. This
23 hearing is adjourned. Thank you.

24 (W , a 3:10 , a a
25 a .)

