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4	WITNESS:	DIRECT CROSS	REDIRECT RECROSS
5	T. Lee	6822	IC 7050
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7	EXHIBITS	FOR ID	IN EVID
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1 UNITED STATES OF AMERICA 2 FEDERAL TRADE COMMISSION 3 4 In the Matter of:) 5 Rambus, Inc.) Docket No. 9302 -----) б 7 8 9 Tuesday, June 24, 2003 10 9:30 a.m. 11 12 13 TRIAL VOLUME 34 14 PART 1 15 PUBLIC RECORD 16 BEFORE THE HONORABLE STEPHEN J. McGUIRE 17 Chief Administrative Law Judge 18 Federal Trade Commission 19 20 600 Pennsylvania Avenue, N.W. 21 Washington, D.C. 22 23 24 Reported by: Josett F. Hall, RMR-CRR 25

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PROCEEDINGS 1 2 3 JUDGE McGUIRE: This hearing is now in order. 4 Any housekeeping items this morning? 5 MR. PERRY: Yes, Your Honor. Before we begin with Mr. Lee, we have a few 6 7 exhibits to move into evidence. I believe both sides 8 do. 9 Mr. Oliver and I have been talking about the 10 exhibits that we used in the Jacob testimony and we're 11 now prepared to offer into evidence six exhibits if I 12 could. 13 JUDGE McGUIRE: Go ahead. 14 MR. PERRY: The first is CX-415. MR. OLIVER: No objection, Your Honor. 15 16 JUDGE McGUIRE: Entered. (CX Exhibit Number 415 was admitted into 17 evidence.) 18 MR. PERRY: RX-1479. 19 20 MR. OLIVER: No objection, Your Honor. 21 JUDGE McGUIRE: Entered. 22 (RX Exhibit Number 1479 was admitted into evidence.) 23 24 MR. PERRY: RX-1308? 25 MR. OLIVER: No objection, Your Honor. For The Record, Inc.

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1 (RX Exhibit Number 406 was admitted into 2 evidence.) 3 JUDGE McGUIRE: Mr. Oliver, anything you wanted 4 to add at this point? 5 MR. OLIVER: Yes, Your Honor. I wanted to move three exhibits into evidence 6 7 that were used in the proceedings yesterday. First is a July 28, 1997 e-mail from 8 9 Terry Walther to certain individuals at Micron, 10 including Terry Lee, attaching a presentation from 11 Texas Instruments. This would be CX-371. 12 MR. PERRY: No objection. 13 JUDGE McGUIRE: Entered. 14 (CX Exhibit Number 371 was admitted into 15 evidence.) MR. OLIVER: Second is CX-2718. This is a 16 17 document, Micron DRAM update, dated March 1998. 18 MR. PERRY: No objection. JUDGE McGUIRE: Entered. 19 20 (CX Exhibit Number 2718 was admitted into 21 evidence.) 22 MR. OLIVER: Third is CX-2769. This is a document entitled Consideration for DDR Clocking 23 24 Scheme and Data Capture with the date September 13, 25 2000.

MR. PERRY: No objection. 1 2 JUDGE McGUIRE: Entered. (CX Exhibit Number 2769 was admitted into 3 4 evidence.) 5 JUDGE McGUIRE: Okay. Mr. Lee, would you please again take the stand. I caution you, you're 6 7 still under oath from your testimony previously. At this time we'll begin the 8 9 cross-examination. 10 11 Whereupon --12 TERRY R. LEE 13 a witness, called for examination, having been 14 previously duly sworn, was examined and testified as 15 follows: 16 CROSS-EXAMINATION BY MR. PERRY: 17 Thank you, Your Honor. 18 Ο. Mr. Lee, good morning. 19 20 Good morning. Α. 21 Ο. I have had some folks arrange the exhibits that 22 we used yesterday in chronological order. We may be referring to some of them from time to time, and so I 23 24 just wanted to let you know those were there in front 25 of you. If we get too much paper in front of you, just

try to work around them and rearrange them. 1 2 I think you told us yesterday that your current 3 title is advanced technology strategic marketing, but 4 I'm not sure I wrote it down correctly. 5 Can you tell us what your current title is at Micron? 6 7 Α. Yes. It's executive director of advanced 8 technology and strategic marketing. 9 Ο. Is that technology singular or plural? 10 Singular. Α. 11 Q. And to whom do you currently report? 12 To Bob Donnelly. Α. Bob Donnelly? 13 Ο. 14 Α. Correct. 15 And what's his current title? Ο. 16 He's the vice president of the consumer and Α. 17 computing group. 18 Is that in the marketing organization of Ο. Micron? 19 20 The consumer and computing group? Α. 21 Ο. Yes. 22 It's a large group. It encompasses more than Α. 23 marketing. 24 Q. And we heard some yesterday about a Mr. Jeff Mailloux. What is his current title? 25 For The Record, Inc.

Waldorf, Maryland (301) 870-8025 1 A. I'm not sure what his current title is at this 2 time.

Q. Have you ever reported directly toMr. Mailloux?

5 A. Yes.

Q. And you told us yesterday about your chronology7 at Micron.

8 During what time period did you report directly9 to Mr. Mailloux?

10 Α. There was probably a break. When I was in the 11 design group for a while, he was the business unit 12 manager, and I probably reported to him for about a 13 year. It might have been around the 1991 time frame. 14 And then there was a year or two where I did not report to him when I was in marketing, and then he came over 15 16 to marketing and I reported to him at that point in time. 17

So my estimate is I've reported to him from19 1993 to maybe 2001.

Q. Okay. And you told us yesterday that today you have some marketing-related responsibilities. I think you talked about outbound marketing and some other kind of marketing. What was the other kind?

A. Correct. The strategic marketing group hassegment marketing and outbound marketing in addition to

product definition, applications engineering. 1 2 So are you currently in the marketing Ο. 3 organization at Micron? 4 Α. You could call it that. 5 Ο. I want to go back to the fall of 1995. Do you have that time period in mind? 6 7 Α. Yes. And you reported to Mr. Mailloux at the time? 8 Ο. 9 Α. That's correct. 10 What was your title? Ο. 11 Α. I'm unclear what the title was. It was probably strategic applications engineer. 12 13 Ο. And that was in the marketing organization? 14 Α. Correct. 15 What were your duties and responsibilities in Ο. 16 that position? 17 Α. Sure. At that position I was responsible for product definition for new products. 18 Ο. Did you have any other responsibilities in that 19 20 time period? 21 Α. It was primarily that. 22 Ο. One of the things you talked about yesterday was a meeting between Rambus and Micron that occurred 23 24 you said in late 1995. Do you remember that? 25 Α. Correct.

1 Ο. You were at that meeting? 2 Α. Yes. 3 And in advance of that meeting you did some 0. 4 research; correct? 5 Α. Yes. You looked at the Rambus Web site for technical 6 Ο. 7 information; correct? 8 Α. That's correct. 9 Ο. Did you look at the Rambus Web site for any other kind of information? 10 11 Α. For? 12 In connection with that meeting? Ο. 13 Α. What other kind of information are you 14 referring to? 15 Q. Did you look at the Rambus Web site for any 16 information about their history as a company or their 17 business model or their corporate management or their investors, anything, other than technical? 18 I don't recall. My focus would have been 19 Α. 20 technical, though. 21 Q. Was anyone else tasked, as far as you know, was 22 anyone else tasked in advance of that meeting with Rambus to try to develop information with respect to 23 24 Rambus' corporate management, business model, history, 25 anything like that?

1 A. I don't recall.

2 And you tried to understand the Rambus Ο. 3 technology in advance of that meeting; right? 4 Α. That's correct. 5 And at Mr. Mailloux's request you read some Ο. Rambus abstracts, some abstracts of Rambus patents? 6 7 Α. Correct. Q. What's an abstract, just briefly? 8 9 Α. An abstract is a brief description of what the 10 patent is about. 11 Ο. And was that available through a Web site of some kind? 12 13 Α. It was distributed to myself through a memo 14 from Jeff Mailloux. Q. And after looking at the abstracts, you asked 15 16 for one or more patents to be sent to you to read the 17 whole patent; is that right? 18 Α. Yes. 19 Do you remember how many patents you asked Ο. 20 for? 21 Α. Not exactly. I think it was just a couple. 22 And you know one of them was the '703 patent 0. you talked about yesterday; right? 23 I recall that. 24 Α. 25 And in anticipation of the meeting with Rambus, Ο.

you prepared a memorandum to Mr. Mailloux describing 2 your conclusions? 3 Α. No. 4 Q. Was that your ordinary practice at the time, to 5 prepare a memorandum when you had a research project like this? 6 7 Α. No. Did you have an oral presentation to 8 Ο. 9 Mr. Mailloux about what you learned, in advance of the 10 meeting? 11 Α. I believe we had a discussion. 12 Did you have PowerPoints? Ο. 13 Α. No. 14 So you had nothing in writing at any time that Ο. showed what your research had shown; is that right? 15 16 Α. No. Okay. Is it correct -- well, let me ask it 17 Q. this way. 18 Did you ever at any point in time prepare 19 20 anything in writing to summarize your research 21 regarding Rambus technology in advance of that 22 meeting? A. Not that I recall. 23 24 Ο. Okay. Well, let's look at that memo from 25 Mr. Mailloux that you mentioned. It's RX-629, and it's

1

- 1 A. Yes.
- 2 Q. And then it says, "We can get copies of the

Q. Well, let's take that in two parts. Let's talk
 about the first part.

3 It says please consider the quality of the 4 patents and it says, "Is there prior art?" Do you see 5 that?

6 A. Yes.

Q. And did you reach any conclusions in reviewing
any Rambus patent abstracts or patents with respect to
whether or not there might be prior art to some of what
you saw in those patents or patent abstracts?

11 A. I came to some conclusions as to whether this12 stuff was familiar or seemed new to me.

Q. And tell us what your conclusions were in thatregard.

15 A. There were a couple patents that seemed like 16 things -- the sort of things I've seen before. There 17 were a couple patents that didn't seem to be very 18 useful.

Q. What were some of the things that you saw thatyou thought you had seen before?

A. There were a couple patents that looked familiar to things I've seen in industry before. One that I remember specifically was they were using an external refresh pin to control refresh in DRAMs. Q. And you thought that was something that had

1 been known to the art, as it were, before Rambus came 2 along?

A. I certainly thought the use of an external pin4 for reset had been done before.

Q. And when you say "done before," is that beforethe priority date that you saw in the '703 patent?

A. It was before the date that I saw in the patent. And we at Micron had done stuff with use of an external pin and we'd seen other things with external refresh pins, so in my opinion that one didn't sound that novel.

Q. When you say before the date you saw in the patent, do you mean the date that the patent issued or what you understood to be the priority date claimed in the patent?

A. It was from the date that was listed on theabstract.

18 Q. And was that what you understood to be a 19 priority date?

20 MR. OLIVER: Objection, Your Honor. There's no 21 foundation as to whether this witness understands what 22 a priority date is. 1 A. Yes.

2

Q. You're a named inventor on them?

3 A. Correct.

Q. Do you understand that "priority date" means
the claimed date of invention in the patent
application?

7 A. Yes.

Q. All right. Well, when you were looking at
these abstracts and you saw a date, did you understand
that to be the priority date or the issue date?

11 A. I understood that the date there was the -- I 12 believe it was the issue date, but I have to review the 13 abstract to confirm that.

Q. Did you think that when Mr. Mailloux was asking you to consider the quality of the Rambus patents and whether there was prior art that he was wondering whether or not there had been people using the technology described in the patent before the priority date or the issue date?

A. My understanding of what Jeff wanted to know was whether this seemed like new patents and things that would be useful, that would be useful for us in other products.

Q. Did you have an understanding from your own experience at the time that "prior art" meant

1 inventions prior to the claimed priority date?

A. Are you asking me what my understanding of thelegal term "prior art" was at that time?

4 Q. No.

5 When you saw this question in this memo, is 6 there prior art, did you understand Mr. Mailloux to be 7 asking for the uses or inventions that would invalidate 8 the patent because they would come before the claimed 9 priority date in the patent?

10 A. My interpretation of what Jeff was asking for 11 was whether there was -- these were new ideas or 12 whether they're things we've seen before or whether 13 they were novel and helpful.

Q. So when you were doing this research in response to this memo, you weren't looking at the question of whether or not there was any use or disclosure of the invention claimed in the patents before the priority date set out in the patents; is that right?

A. If I understood the question -- I guess maybeyou can repeat that for me.

MR. PERRY: Could you read it back, please.
(The record was read as follows:)
"QUESTION: So when you were doing this
research in response to this memo, you weren't looking

at the question of whether or not there was any use or 1 disclosure of the invention claimed in the patents 2 3 before the priority date set out in the patents; is 4 that right?" 5 THE WITNESS: Yeah, I did no research to compare those dates with specific patents of other 6 7 dates. BY MR. PERRY: 8 9 And did you report any conclusions to Ο. 10 Mr. Mailloux in response to his question about prior 11 art? 12 Α. Yes. 13 0. And you did that orally? 14 Yes. Α. 15 Have you ever seen any of those conclusions set Ο. 16 down in writing? Not that I recall. 17 Α. Who was present when you did this orally? 18 Ο. Kevin Ryan and I discussed -- he had half of 19 Α. 20 the abstracts, I had the other half, and we discussed 21 what we saw and we shared those conclusions with Jeff. 22 At the time, our cubicles were right by each other, so verbal communication was kind of typical then. 23 24 Ο. Did you ever see anything written down that 25 reflected Mr. Ryan's conclusions about the abstracts or

1 patents he looked at?

2 Not that I recall. Α. 3 And then the two of you, you and Mr. Ryan, you Ο. 4 met with Mr. Mailloux to discuss your conclusions; 5 right? I don't recall if we both met with him Α. 6 7 simultaneously or if we met with him individually, but Kevin Ryan and I talked first. 8 9 Q. And you told Mr. Mailloux that some of what you'd saw -- some of what you had seen looked like 10 11 stuff that had been used before? 12 Correct. Α. 13 Ο. And you said that some of it looked like stuff 14 that wasn't very useful to Micron; right? 15 Correct. Α. 16 Did you say anything else to him in response to 0. his question, is there prior art? 17 18 No. I think that's pretty much the summary of Α. the prior art question. 19 20 Q. And then yesterday you talked about that 21 meeting with Rambus in 1995; right? 22 Α. Yes. And you said you could not recall whether there 23 0. 24 was any discussion of Rambus patents. Was that your 25 testimony?

at the December 1995 meeting with Micron that you 1 2 attended. 3 (Pause in the proceedings.) 4 Do you have the question in mind? I'll just 5 restate it. Does this appear to be the slides that were 6 7 used by Rambus at the December 1995 meeting with Micron that you attended? 8 9 Α. I can't say for sure whether these were the 10 presentations that were used but -- other than the use 11 of the date and Micron at the top. 12 Do you recognize the handwriting? Ο. 13 Α. I think I do. 14 Whose handwriting do you think that is? Q. 15 I think that's either Jeff's or Kevin Ryan's, Α. 16 Jeff Mailloux's or Kevin Ryan's. 17 Q. And do you see on the second page of the exhibit, page 2 -- if you'll pull up the top PowerPoint 18 slide -- do you see it says "Rambus, Inc. 19 20 Mountain View, California"? MR. OLIVER: Objection, Your Honor. There's 21 22 been no foundation this witness actually has seen this document before. 23 24 MR. PERRY: Your Honor, he was at the meeting. 25 He's testified he was at the meeting.

1 JUDGE McGUIRE: You can still lay that 2 foundation and ask if he's seen it. 3 MR. PERRY: Let me just ask if this page 4 refreshes his recollection. 5 JUDGE McGUIRE: Go ahead. BY MR. PERRY: 6 Q. Looking at this particular page, page 2 of the 7 exhibit, do you see where it says "Mountain View, 8 9 80 people, broad IP coverage, financially sound"? Do you see a reference to Bill Gates and Michael Dell 10 11 recently invested in the company? 12 Does any of that refresh your recollection of 13 anybody standing up and presenting this slide to you 14 and the Micron people in December of 1995? 15 Α. No. 16 MR. PERRY: We'll pass this document, Your Honor. 17 18 BY MR. PERRY: 19 And you told us yesterday that as a result of Ο. 20 this December 1995 meeting a decision was made at 21 Micron not to take a license from Rambus; right? 22 Α. Not to take a license for the RDRAM product. Right. At least that was the decision at that 23 Ο. 24 time; right? 25 Α. Correct.

1 And you said that later on Micron was forced to Ο. 2 sign a license with Rambus for direct RDRAM; right? 3 From a business sense, yes. For direct RDRAM. Α. 4 Ο. And you told us that Micron was forced to sign 5 that license for direct RDRAM because Intel had announced that it was going to work with Rambus 6 7 technology in the future as the next-generation main 8 memory; right? 9 Α. Specifically they were using it not only for 10 main memory but across all the platforms, which 11 indicated a large market share for memory. 12 Q. And that's what forced Micron to sign that 13 license; right? 14 Α. Yes. And you talked some about a memo from 15 Ο. 16 Mr. Mailloux to Mr. Appleton on that subject. It's RX-829. It's dated December 10, 1996. If you could 17 pull it out, it's probably the top part of your stack. 18 19 Do you have it? 20 Α. Yes. 21 Ο. Let's pull up the to/from up at the top just to identify it. 22 Is this an e-mail that you received from 23 24 Jeff Mailloux in December of 1996 where you were copied 25 on the e-mail?

1 A. Yes.

2 And Mr. Mailloux sent it to Mr. Appleton? Ο. 3 Correct. Α. 4 Mr. Appleton was then the CEO of Micron; Q. 5 right? I believe that's correct. He was CEO or 6 Α. 7 president. Q. And I see this e-mail is also copied to 8 9 G. Cloud. Is that Gene Cloud? 10 Α. Yes. 11 Ο. What was his position at the time in Micron in December of 1996? 12 13 Α. He was the vice president of marketing. 14 Did Mr. Mailloux report to him at the time? Ο. 15 Α. Yes. And the memo starts with -- or the e-mail 16 Ο. starts with, if we look at the first line, "Steve, this 17 is what Terry, Kevin and I came up with for Rambus 18 negotiating points"; right? 19 20 Yes. Α. 21 Ο. And are you the "Terry" that's referred to? 22 Α. Yes. 23 That the three of you met and talked about 0. 24 possible Rambus negotiating points? 25 Α. Yes.

And you understood that that was in advance of 1 0. 2 the negotiation involving Mr. Appleton and Rambus 3 personnel over a direct RDRAM license? 4 Α. Yes. 5 Now, the first sentence says, "As a bigger Ο. negotiating point, what if you made some suggestion 6 7 that we want to make part of the NRE (if it is still high) something where we got a part of their company?" 8 9 Now, NRE refers to nonreoccurring engineering 10 fees; is that right? 11 Α. Nonrecurring engineering fees. 12 And the reference to getting a part of their Ο. 13 company, is that a reference to getting some equity in 14 Rambus? 15 I believe that's what he meant at that time. Α. 16 And was that a suggestion that you and Ο. 17 Kevin Ryan and Jeff Mailloux had discussed prior to the preparation of this memo? 18 I don't believe Kevin and I were involved with 19 Α. 20 that discussion. 21 Q. You think that's something that Mr. Mailloux 22 came up with either on his own or with somebody else 23 but not with you? 24 Α. Yes. Jeff solicited some input from Kevin and 25 I and then Jeff put together an e-mail.

1 RDRAM device?

2 Α. That's correct. 3 Did you believe that to be true at the time? 0. 4 Α. Yes, I did. 5 Now, if you look down to the paragraph Ο. numbered 4, that says, "Complete DRAM design 6 7 schematics can be contracted and/or purchased for 2-3M." 8 9 Did you understand that to be two to three million dollars? 10 11 Α. Yes. 12 And then it says, "MOSAID was willing to do a Ο. 13 complete SyncLink DRAM design for this kind of money." 14 Do you see that? 15 Α. Yes. 16 Was that information that you provided to Ο. 17 Mr. Mailloux as a way of suggesting a reason for Micron to get a lower nonrecurring engineering fee? 18 Jeff was aware of the -- of that benchmark, if 19 Α. 20 you will, of what the design fee was quoted by MOSAID I don't recall if that was 21 for doing SyncLink. 22 something I specifically gave to him or Kevin gave to him or was part of our discussion. 23 24 Ο. But was it true at the time that complete DRAM 25 design schematics can be contracted and/or purchased

1 for two to three million?

patents related to this work"? Do you see that? 1 2 Α. Yes. 3 Does that refresh your recollection that in Ο. 4 fact Micron had been filing patent applications 5 relating to the Wasatch Project work? I think we had been filing some patents related 6 Α. 7 to high-speed DRAMs. I don't know if it was necessarily related to exactly what we were calling the 8 9 Wasatch Project. 10 Q. And those applications were related to the 11 high-speed synchronous DRAMs; right? 12 Α. I don't recall. They were high-speed DRAM in 13 general, just techniques for operating DRAMs or 14 developing DRAMs that are high speeds. 15 The Wasatch Project, was that a high-speed Ο. 16 DRAM? The Wasatch Project was I would describe it as 17 Α. brainstorming sessions on things that high-speed DRAMs 18 would need in the future. 19 20 Was there a design schematic prepared? 0. 21 Α. No. 22 Was there any consideration given to the need Ο. to use dual-edged clocking? 23 I don't recall. 24 Α. 25 How about programmable burst? Was there any Ο. For The Record, Inc.

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consideration given to the need for programmable burst 1 2 in that device? I don't recall if that was one of the features 3 Α. 4 under consideration. 5 Who was in charge of the Wasatch Project? Ο. I'm not sure that there was really an official 6 Α. 7 leader. Was there an unofficial leader? 8 0. 9 Α. Not that I know of. 10 Well, Mr. Mailloux goes on to say, that line I Ο. 11 read part of says, "We have of course been filing patents related to this work and in anticipation of how 12 high-speed DRAMs would evolve." 13 14 Do you see that? 15 Α. Yes. 16 When you got this memo, did you have an Ο. understanding of what Mr. Mailloux meant by we've been 17 18 filing patents in anticipation of how high-speed DRAMs would evolve? 19 20 I believe I had an understanding of what he Α. 21 meant. 22 Did you understand him to mean that Micron was Ο. 23 attempting to anticipate what other companies might be 24 using in high-speed DRAMs in the future? 25 No, not exactly. Α.

Q. What did you understand him to mean?
 A. What he meant was we were spending some time
 with Wasatch trying to figure out how in the future
 high-speed DRAMs might change or the kind of features
 that might be helpful and the kind of things we might
 need to do for future high-speed DRAM development.

7 And the Wasatch Project was really just a 8 series of a few meetings. There was other thoughts and 9 discussions in high-speed DRAMs in general in this time 10 which may or may not have been called the

11 Wasatch Project.

Q. So as you understood it, when he talks about filing patent applications in anticipation of how high-speed DRAMs would evolve, did you understand him to be talking about the need to include that kind of patents in future cross-license negotiations?

17 A. Not necessarily.

Q. Did you understand him to be talking about the ability to assert those patents against other companies that might be making high-speed DRAMs?

A. Not necessarily.

Q. What did you understand him to mean by "in
anticipation of how high-speed DRAMs would evolve"?
A. My understanding was that he was saying that
we've thought about the way these things are going in

the future and that we have filed some patents related 1 to that and my understanding is primarily for defensive 2 3 purposes. 4 Ο. Now, since you've been at Micron, Micron has 5 encouraged you to file patent applications; correct? Α. Correct. 6 Is that one of the parameters on which your 7 0. 8 performance is judged? 9 Α. Not necessarily. 10 Sometimes it is, isn't it? Ο. 11 Α. I've never really received any feedback that I did well or not did well based on number of patents. 12 13 Ο. What was your understanding as to why Micron 14 wanted you to file patent applications? Micron wanted to develop a patent portfolio 15 Α. 16 over time. 17 Q. Why? It goes back to the history of Micron. Earlv 18 Α. on in Micron's history, they were subject to some 19 20 licensing with some other companies, and we felt that 21 we were at a relative disadvantage compared to some of 22 the companies we were cross-licensing with, and so in 23 general they wanted us to try to develop our patent 24 portfolio over time. 25 And you understood that it was desirable to Ο.

- 1 develop -- to file patent applications on technologies
- 2 that would be useful in the future; correct?
- 3 A. Sure.
- 4 Q. Now, this memo goes on to say, this memo from

or not Rambus intellectual property was -- strike that.
 Let me ask it again.

3 Did you have any conversation with Mr. Mailloux
4 between December 1995 and December 1996 about the
5 general issue of prior art with respect to Rambus
6 patents?

A. No. No discussions that involved any new8 information from what we've discussed before.

9 Q. Okay. Now, I see references in this memo from
10 Mr. Mailloux, RX-829, to SyncLink.

11 Do you see that in that paragraph we've been 12 looking at?

13 It says "Before we started our work with

14 SyncLink." Do you see that?

15 A. Yes.

16 Q. And by this point in time, December 1996, you 17 were involved with SyncLink; correct?

18 A. Yes.

Q. Well, let's look at a document about seven days
 later, RX-836.

21 May I?

22 JUDGE McGUIRE: Yes.

23 BY MR. PERRY:

24 Q. Do you see the date on this of December 17,

25 1996?

1 differences between RDRAM and next-generation RDRAM. 2 Ο. Well, let's pull up the top part of the second 3 page. 4 Do you see where it says, "Stacie, please 5 forward to all sales, marketing and apps"? Α. Yes. 6 7 And this is at least signed or the last page 0. has the name Jeff Mailloux on it. 8 9 Do you see that? 10 Α. Yes. 11 Q. And you think this is something from 12 Jeff Mailloux to somebody named Stacie, asking her to 13 forward it to a large group of people; right? 14 Α. Yes. 15 Who was Stacie? Ο. 16 Marketing assistant. Α. 17 And then it says "for use as a guide for Q. 18 discussions with customers only"; right? Do you see that? 19 20 Α. Yes. 21 Ο. And then just below that it says "Micron script 22 for response to Intel plans to use nDRAM (Rambus derived) in 1999." 23 24 Do you see that? 25 Yes. Α.

Q. Was it -- is it your recollection that in and 1 2 around December 1996 Intel had announced its intentions 3 to incorporate Rambus technology across various 4 platforms? 5 Α. Yes. And is it your understanding that this is, at 6 Ο. 7 least in part, intended to be a position statement for use by Micron folks to customers? 8 9 Α. To answer questions from customers. Okay. And then it says "General Statement." 10 Ο. 11 Let's pull that paragraph up. It says, "Micron is in the business of 12 13 providing high-performance, cost-effective memory solutions to our customers." 14 15 You agreed with that at the time; right? 16 Α. Yes. And the next sentence says, "We will always be 17 Q. 18 interested in producing whatever type of memory meets the needs of the market and can be produced in 19 20 sufficient volume to drive costs down." 21 Did you agree with that at the time? 22 Α. Yes.

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product that have fixed costs and there's aspects that 1 2 have variable costs, and those variable costs --3 components of the variable cost can be driven down by 4 volume through improvements in yield. 5 Ο. And has it been the traditional pattern in introduction of DRAM devices in your experience that 6 as the volume ramps up, the manufacturing costs come 7 down? 8 9 Α. They come down to some point and they flatten 10 out similar to our discussion yesterday. 11 Ο. Okay. Well, if you'll look down to the third paragraph, there's a description or a statement about 12 13 Intel here. 14 Do you see that? 15 Α. Yes. 16 It says, "Intel currently plans to use a 'new Ο. and improved' version of Rambus technology for the main 17 memory in one of their future high-end computer 18 platforms, which would first appear in 1999." 19 20 Do you see that? 21 Α. Yes. 22 Now, was it your understanding at the time that Ο. Intel's use of the Rambus DRAM wouldn't happen for a 23 24 few years? 25 Α. Yes.

1 Okay. It says, "This new DRAM has been called 0. 2 'nDRAM' and it is still being defined." 3 Was that your understanding at the time? Α. Yes. 4 5 If you can look on the next page, please, Ο. page 3 of the document, do you see about a third of the 6 7 way down it says "Questions and Answers"? 8 Α. Yes. 9 Ο. Let's look at this question by question. 10 Let's pull up question and answer number 1. 11 Question number 1: Does Micron have a Rambus 12 license? Is that question number 1? 13 14 Α. Yes. 15 And it says: "No, we do not. Ο. We also are 16 unaware of any barriers to Micron obtaining a Rambus license, should we decide to do so." 17 18 And did you believe that to be a true statement at the time? 19 20 Α. Yes. 21 Ο. Now, then it says, "Even though we have not 22 been working directly on Rambus technology, we have been doing R&D on similar solutions (SyncLink and other 23 24 internal R&D projects) for some time now." 25 Do you see that?

1 A. Yes.

2	Q. Do you agree that SyncLink was a similar	
3	solution to Rambus?	
4	A. Only to the extent that it is a high-speed	
5	DRAM.	
6	Q. That's the only similarity that you can see?	
7	A. I think that's what Jeff is referring to here.	
8	Q. But you talked yesterday about some	
9	similarities between SyncLink and Rambus, didn't you?	
10	A. I'd compared a couple things that were similar.	
11	Most things were different.	
12	Q. Okay. One of the similarities between the two	
13	that you didn't mention yesterday is both use	
14	dual-edged clocking; right?	
15	A. Not exactly.	
16	Q. Well, as of 1995, you understood both to use	
17	dual-edged clocking, didn't you?	
18	A. No.	
19	Q. Okay. Did you understand in 1995 that both	
20	devices used both edges of the clock to transmit data?	
21	Is that statement true?	
22	Q. i 21 IsoTjTt Wefday 20 devices used use	у

and my understanding of SyncLink is we use a 1 2 synchronous strobe that uses dual edge to capture 3 data. 4 Ο. And you think that's different from the way Rambus does dual-edged clocking; right? 5 Α. I believe that Rambus uses a dual-edged clock 6 7 to capture data, whereas SyncLink is a source 8 synchronous design. 9 Ο. And you think that's a difference between the 10 two? 11 Α. Yes. 12 It makes them not similar in your view? Ο. 13 Α. Yes. 14 Well, look at paragraph 2 or question 2. Ο. That question is: How quickly will nDRAM replace SDRAM, 15 will SDRAM have a short life? 16 17 Do you see that? 18 Α. Yes. 19 Ο. And the second sentence in the answer says, 20 "How quickly nDRAM replaces existing DRAM solutions at 21 that time will be a question of cost versus performance 22 and supplier support of nDRAM, and nobody can predict this with any accuracy out that far (1999, 2000, 2001, 23 24 et cetera)." 25 Do you see that?

1 A. Yes.

2 Q. Did you agree with that at the time?

3 A. Definitely.

Q. And when you got this memo, did you have an
understanding of what Mr. Mailloux meant by "supplier
support of nDRAM?"

7 A. Yes.

8 Q. What did you understand him to mean?

9 A. Supplier support, in our business we have to 10 have perfectly substitutable products from other 11 suppliers, so there needs to be multiple sources for 12 the same part.

Q. And that would also mean that it would be likely there would be a higher volume of nDRAM available; right?

16 A. I'm not sure I understand that question.

Q. Did you also understand "supplier support ofnDRAM" to mean volume production?

A. I understood "supplier support" to mean thatmultiple suppliers were producing a part.

21 Q. In production volumes?

22 A. Yes.

Q. Okay. Look at the fourth question. I think that it goes from 2 to 4 in the numbering, but let's talk about number 4.

1 It says, "What would having to make nDRAM or 2 SyncLink mean to Micron?" Do you see that? 3 4 Α. Yes. 5 MR. PERRY: Actually I've got this on a board if I could, Your Honor. б 7 JUDGE McGUIRE: Yes, go ahead. MR. PERRY: And we would propose to mark this 8 9 blowup from this Exhibit RX-836 as DX- --JUDGE McGUIRE: I think it's 118. 10 11 MR. PERRY: -- 118. Thank you. BY MR. PERRY: 12 13 Mr. Lee, question 4 is: What would having to 0. 14 make nDRAM or SyncLink mean to Micron? 15 Do you see that? 16 Yes. Α. 17 And it says, "Keep in mind that all of these Q. 18 DRAM technologies use the same DRAM process, the same DRAM cell, and virtually the same DRAM array." 19 20 Did you agree with that at the time? 21 Α. I would agree with everything but "the same 22 DRAM array" statement. And you disagreed with that at the time? 23 Ο. 24 Α. I think that the arrays of those different architectures are somewhat different. 25

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involves only changing priorities in design and product engineering and may mean some differences in our assembly and test equipment purchases. SDRAM, SLDRAM, nDRAM all use the same fab equipment and core DRAM technology. In short, while the flavors might change, it's still a DRAM."

7 Do you see that?

8 A. Yes.

9 Q. Now, that sentence, "SDRAM, SLDRAM, nDRAM all 10 use the same fab equipment and core DRAM technology," 11 you agreed with that at the time; right?

A. I agree with what I believe his intent was. His intent I believe was that the same fab equipment means in the semiconductor processing part and by the same thatypmennvoln.

ce, ndnt lo fab He 6talk engiboussiconductocd by the dnt lo fab issue A. Yes.

18 9 1didn't Doany reasont oors miglieve A. Υ Yes. 1 ow, that inf sihis i drioriiscutoroTj I agA. Yes. 2 cuttay theparMicron the timA. Yes. 21 12 Not ba droerenceknowlediglve wave w at A. Yes. 22 9 if 1go backt oopaig12 of wa 1docufab ht change, 2 didn't ask 11bousswa locessinf Let at tocu in change,

1 It says, "Micron has been very involved in 2 research and development efforts on the SyncLink DRAMs 3 (SLDRAMs)." 4 Do you see that? 5 Α. Yes. And in 1996 you had been involved in those 6 Ο. 7 efforts on behalf of Micron; correct? 8 Α. Correct. 9 Ο. And then it says that SyncLink is an open, 10 nonproprietary standard that is being promoted by a consortium of nearly all of the major DRAM suppliers. 11 12 Do you see that? 13 Α. Yes. 14 Is that information you provided to Ο. 15 Mr. Mailloux? 16 Α. I don't recall. 17 Did you believe those statements to be true at Ο. the time? 18 From a legal sense, I'm not sure I understand 19 Α. 20 the legal definition of those standards. Okay. And then it says, "Our involvement in 21 0. 22 SyncLink has required the same type of R&D that is involved with the existing and future Rambus types of 23 24 technology." 25 Did you believe that to be true at the time?

terms, so I agree that they were both characterized
 that way at that time.

Q. Do you have any reason to believe that Mr. Mailloux didn't think that this statement was true at the time this memo was prepared for use as a script with Micron customers?

A. I don't have any reason to believe that he
didn't believe it was true; however, as I mentioned
before, his level of technical expertise was somewhat
less detailed.

11 Q. Does that suggest to you that he relied upon 12 you for this information?

A. He would have relied on the input of people
like Terry Walther, Kevin Ryan and myself and also
things that he read.

Q. And you told us yesterday Mr. Walther had goneto some SyncLink meetings before you; correct?

18 A. That's correct.

19 Q. And at some point did he ask you to take over 20 going to SyncLink for him?

A. Not exactly.

22 Q. How did that work, that you started going and 23 that he -- did he stop going?

A. He eventually stopped going. I think later onhe reattended some meetings.

Q. Okay. Well, did somebody ask you to start
 going to SyncLink meetings?

3 A. Yes.

4 Q. Who?

5 A. Terry Walther.

Q. Okay. Did he tell you why he wanted you to goto SyncLink meetings?

8 A. Yes.

9 Q. What did he tell you?

10 A. He wanted me there to provide some technical 11 support for the kind of issues that were being 12 discussed.

Q. And during the time period when he had been going to meetings and you weren't, was he sending you some minutes from the meetings?

A. I don't recall if he sent me minutes or not or
whether he was just giving me verbal updates. I
certainly remember the verbal updates.

Q. When you first started attending SyncLink meetings, did Mr. Walther give you some information, some kind of information package about what SyncLink was?

A. I don't recall the specific event, so I'm notsure whether he did or he didn't.

25 Q. Okay. When you started showing up at SyncLink

There was an effort, there was a presentation 1 Α. 2 made to Intel to try to show the merits of SyncLink. 3 It was hoped that Intel would use that for their 4 next-generation DRAM they were calling. 5 Instead of Rambus; right? Ο. That was the other part that they were 6 Α. 7 seriously considering. I think later on they considered DDR as well. 8 9 Ο. But at that time in the fall of '95 your understanding -- fall of '96 your understanding was 10 11 that it came down to SyncLink and Rambus? 12 For Intel's decision? Α. 13 Ο. Yes. 14 I believe those were the highest consideration. Α. 15 Okay. And you participated in efforts in that Ο. 16 fall of '96 time period to try to persuade Intel to 17 choose SyncLink; right? 18 Α. Correct. 19 Ο. And after Intel had chosen Rambus, you participated in efforts to persuade Intel to change its 20 21 mind; right? 22 Α. After Intel had chosen Rambus? 23 Yeah. Ο. 24 Α. I don't recall if there were any of those discussions after the choice was made. I recall one 25

discussion with Intel prior to our signing the license
 of showing some technical problems we felt that Rambus
 had.

Q. Well, I'm not limiting my question just to
face-to-face or even on-the-phone discussions directly
with Intel.

Did you participate in any efforts after Intel
had chosen Rambus to persuade -- that were intended to
persuade Intel to change its mind?

10 A. I recall discussions with Intel showing 11 technical issues or manufacturing issues and problems 12 that we felt we would have bringing Rambus up in 13 production, and I also remember showing them details of 14 DDR and some other products that we felt we could bring 15 up easier.

Q. And is that a yes, that you did participate in some efforts to persuade Intel to change its mind after Intel chose Rambus?

A. I guess I wouldn't characterize it that way as, well, I'm trying to explaining it to you because the way you're asking the question isn't exactly the way I would refer to it as.

23 Q. Okay. Well, we'll look at it.

24 But you certainly knew as of December 1996 that 25 Micron did not want to be forced to sign a license

agreement with Rambus to produce nDRAM or direct RDRAM; 1 2 right? 3 Α. That we did not want to be forced? 4 Q. Yeah. 5 Α. Is that the question? Yeah, we prefer not to be forced. 6 Well, you told us that ultimately Micron was 7 Ο. forced to sign that agreement; right? 8 9 Α. We had no choice but to provide products in 10 support of the Intel platforms. That would have been 11 not good economically for us. 12 And you understood in December of 1996 and Ο. 13 throughout 1997 Micron did not want to sign that 14 license; right? 15 I understood that we signed that license. Α. 16 You understood that it signed the license Ο. because it was forced to; right? 17 18 We had economic pressure, yes. Α. Well, let's go back into the fall of 19 Ο. Okay. 20 1996 time period and I'll show you something from August 1996, which is Exhibit RX-757. 21 22 May I? 23 JUDGE McGUIRE: Yes. BY MR. PERRY: 24 25 I don't have many questions for you about this Ο.

1 lengthy document. This is some SyncLink Consortium 2 meeting minutes produced to us by Hynix, dated 3 August 27, 1996. 4 Do you see that you're listed as attending? 5 Α. Yes, I do. Do you have any reason to believe that you did 6 Ο. 7 not attend this August 1996 meeting of the SyncLink Consortium? 8 9 Α. No. 10 Ο. Well, on the subject that we were just talking 11 about, let's look about halfway down the first page of 12 these minutes, where it says "Kevin Ryan." 13 Do you see where it says "Kevin Ryan"? He was 14 a Micron person; right? 15 Α. Yes. 16 "Kevin Ryan will sum up Intel meeting. Intel Ο. impressed, will increase its attention to this 17 18 consortium." 19 Do you see that? 20 Α. Yes. 21 Ο. Were you present for that Intel meeting that's 22 being described there? 23 Α. Yes, I was. 24 Who else besides you and Mr. Ryan -- well, Ο. 25 strike that.

Was Mr. Ryan also present?

2 A. Yes, he was.

1

Q. And who else besides you and Mr. Ryan were
present at that Intel meeting to discuss SyncLink?
A. There were members from a variety of
companies, so there was roughly two people from
several companies.

Q. How many companies were represented at that9 meeting with Intel?

10 A. An estimate would be seven or eight.

11 Q. And if you'll look on page 3, please, of these 12 minutes, and look at the first 12 or 13 lines. Just 13 read that to yourself and then I have a couple of 14 questions.

15 (Pause in the proceedings.)

16 A. Okay.

Q. Now, does it appear to you that Mr. Tabrizi is roughly summarizing what Intel's performance goals were that they had stated at that meeting you had attended?

A. Yes. I think these were rough requirements ortargets that they had.

Q. And then there's a statement at least attributed to you that says, "We were successful in keeping the door open, but we have an emergency

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1 situation."

2 Do you see that?

3 A. Yes.

Q. Now, assuming that these minutes are accurate,
why did you think that there was an emergency
situation?

A. When we talked with Intel, they felt that we needed to have a lot more progress to be considered for their decision, and so they said we really only had a few months and they listed the variety of things that we needed to do, so in my opinion, that was a lot of work in a very short time, so that's the reference to the emergency situation.

14 Q. Well, look back on page 2. And let's look 15 next to your name about halfway down. It says 16 "Terry Lee."

17 Pull up three or four lines.

18 It says: "Terry Lee, status of test chip. The 19 test chip was intended as an opportunity to prove we 20 could really do it, which seems less important now 21 because Intel is satisfied that simulations are good 22 enough."

Is that a message that you had understood from the meeting with Intel that they were going to be satisfied with simulations of the SyncLink chip?

They -- yeah, they're pretty high priority. 1 Α. 2 We, going into the meeting, felt that chip test was 3 rather important, and as a result of the meeting, they 4 seemed to emphasize a higher focus on simulation data. 5 And then it says, "Rambus has hardware now that Ο. works, which provides an existence proof." 6 Why would the fact that Rambus had working 7 hardware provide an existence proof for SyncLink? 8 9 Α. For SyncLink? It's not for SyncLink. 10 Okay. So that reference to an existence proof Ο. 11 doesn't have anything to do with SyncLink; is that 12 right? 13 Α. That Rambus has hardware that works provides an 14 existence proof references the fact that they're able to demonstrate hardware working at some data rate, so 15 16 there's some kind of proof in that alone that it can 17 operate at this data rate. Simulations are a different kind of proof. 18 19 Ο. Okay. Let me show you a document that's dated just a few weeks later in September 1996, RX-765. 20 21 May I? 22 JUDGE McGUIRE: Yes. BY MR. PERRY: 23 24 Mr. Lee, at some point in time were you Ο. 25 involved in public relations efforts on behalf of

1 SyncLink?

2 That really wasn't my responsibility. I was Α. involved in the technical work. 3 4 Q. Were you ever chair of the PR task force for 5 SyncLink? Α. Not that I recall. 6 7 Okay. But you did see this press release in Ο. September 1996, didn't you? 8 9 Α. Yes. 10 Now, the press release begins by referring to, Ο. 11 if you'll look in the third line, an open, 12 royalty-free industry standard for high-performance 13 DRAMs. 14 Do you see that? 15 Α. Yes. And did you have an understanding at the time 16 Ο. of what was meant by "an open, royalty-free standard"? 17 18 Α. I think what they're referring to at that time was that it didn't require a license fee and an NDA to 19 20 get access to the information. 21 Q. Well, look on the second page. There's a 22 description of the SyncLink timeline. Do you see that? 23 24 "The SyncLink Timeline," it says, "The timeline announced by the consortium calls for the 25

1 first SLDRAMs to be available in the second half of 2 1997." 3 Do you see that? Α. Yes. 4 5 Had you been involved in working out the date Ο. by which the world was going to be told the first 6 SLDRAMs were going to be available? 7 To establish the target of second half when 8 Α. 9 companies would first start having devices; is that the 10 question? 11 Ο. Did you have an understanding of what this means, "be available"? 12 13 Α. Yes. 14 What was your understanding? Q. 15 We understood that some companies would have a Α. 16 device, you know, have silicon at that time. 17 Q. So that just means having silicon to you? To sample. 18 Α. It doesn't mean production volume, does it? 19 Ο. 20 Not necessarily. Α. 21 Ο. And then it says "The SyncLink Consortium," 22 and do you see there's a statement that "The SyncLink Consortium members include nine of the top 23 24 DRAM suppliers, bringing together companies with 25 commodities manufacturing expertise and a combined For The Record, Inc.

DRAM market share of 75 percent worldwide"? Do you see 1 2 that? 3 Α. Yes. 4 Did you have any reason to doubt the accuracy Q. 5 of that statement at the time? No, I don't think so. 6 Α. 7 Now, did you learn shortly after this press 0. release was released that the statement "royalty-free" 8 9 that appeared in the press release was untrue? 10 Α. I recall some discussion, I think some concerns 11 as to Micron whether that met -- whether that statement 12 met our I guess standard definition of what 13 royalty-free was all about. 14 And was that a concern you had? Ο. 15 I don't recall if it was my concern. Α. I know 16 internally after the press release went out we were 17 concerned whether that was clearly representing the situation or not. 18 19 Okay. Well, let me show you the next month's Ο. 20 meeting minutes. You were also present for this one. 21 It's RX-780. 22 May I? 23 JUDGE McGUIRE: Go ahead. BY MR. PERRY: 24 25 I just have one question on this document Ο.

after I demonstrate that you're listed as being
 present.

3 Do you see that you're listed as an attendee at 4 the October 1996 SyncLink Consortium meeting? 5 Α. Yes. And if you'll look at page 2, the line at the 6 0. very bottom of page 2 that starts "in our last press 7 release," do you see that? 8 9 It says: "In our last press release, we said 10 this is a royalty-free architecture. We didn't mean 11 individual companies would not be able to collect 12 royalties for the use of their property. We just meant 13 that users won't have to pay royalties to the 14 consortium." 15 Do you see that? 16 Yes. Α. 17 And is that statement consistent with your Ο. understanding of the way the SyncLink device would be 18 19 treated for intellectual property purposes? 20 My understanding is that there was no fee to Α. 21 use the device or get access to the specification. There was some fee to join the consortium, just a 22 yearly, annual fee, and I don't recall that there was 23 24 any royalties required to be paid to the consortium.

25 Q. Did you have an understanding that you had to

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be a consortium member in order to use the patents? 1 I don't recall what my understanding was at 2 Α. 3 the time. I probably had been working with legal on 4 that. 5 Did you have an understanding at this time that Ο. if Micron developed intellectual property as a result 6 of its work on SyncLink devices that it would still be 7 able to collect royalties for the use of that 8 9 intellectual property? 10 Α. I don't recall what my exact understanding was.

11 I would have been talking to my legal department, 12 though.

Q. I don't want you to, at any point in time today, I don't want you to tell me what you and your legal department talked about. Okay?

16 A. Okay.

Q. Did you ever talk to Mr. Mailloux about thepress release?

A. I don't remember a specific conversation. It's
 possible.

Q. Did you ever have any conversation at a SyncLink Consortium meeting where somebody said, We really should correct that press release to reflect that individual companies can still collect royalties for the use of their property if it's being used in a

1 SyncLink device?

I remember a discussion about concerns whether 2 Α. 3 that press release was accurately reflecting the 4 consortium situation. 5 But you do know that no corrected press release Ο. was ever circulated, don't you? 6 Α. I don't recall. 7 Now, in this same time period, September 1996, 8 Ο. 9 you understood that Intel was visiting various DRAM 10 manufacturers to talk about the possibility that Intel 11 would choose RDRAM instead of SyncLink; right? We had a visit --12 Α. 13 MR. OLIVER: Objection, Your Honor. Lack of 14 foundation in terms of what Intel was doing with other 15 companies. 16 JUDGE McGUIRE: Sustained. BY MR. PERRY: 17 18 Did you have any understanding in Ο. September 1996 that Intel was visiting various DRAM 19 20 manufacturers? 21 MR. OLIVER: Objection, Your Honor. 22 BY MR. PERRY: 23 0. Yes or no? 24 MR. OLIVER: Objection, Your Honor. To the 25 extent that he has an understanding, it would be the

1 result of hearsay.

2 No, Your Honor. He was there. MR. PERRY: 3 JUDGE McGUIRE: I'll entertain the question. 4 THE WITNESS: The question was did I have any 5 knowledge that Intel was visiting DRAM manufacturers? BY MR. PERRY: 6 Yes. 7 Ο. They visited us occasionally. 8 Α. 9 Ο. In this time period, in advance of announcing 10 that Intel was going to choose Rambus, did Intel come 11 to Micron and talk about the possibility that it might choose Rambus? 12 13 Α. In late '96 I believe they came to visit in 14 preparation -- after they'd made their decision, in preparation for a license negotiation. 15 16 Q. And in that meeting you made an effort to talk 17 them out of it, didn't you? Didn't you? You, Mr. Lee, you tried to talk them out of it? 18 We tried to show them the technical problems 19 Α. that we saw. This is what I discussed earlier with 20 21 you. We tried to show them the technical problems that 22 we saw with some of the Rambus technology. And in fact you, Mr. Lee, asked the other DRAM 23 0. 24 manufacturers to ask hard technical questions of Intel

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1 A. I believe I did.

2 Q. Well, let's look at it. It's RX-763.

1 Did you receive authorization from your 2 supervisor, Mr. Mailloux, before preparing questions to 3 send to other manufacturers that they would ask Intel 4 about Rambus? 5 Α. I don't recall if I did. Now, the other manufacturers, the other DRAM 6 0. 7 manufacturers, were your competitors at the time; 8 right? 9 Α. Correct. 10 Why were you cooperating with your competitors Ο. 11 to try to persuade Intel not to choose Rambus? 12 I didn't say I was doing that. Α. 13 Weren't you, when you sent this list of hard 0. 14 questions out, weren't you hoping that the questions would persuade Intel to change its mind or at least 15 16 delay its decision to choose Rambus? 17 Α. That wasn't the intent that I expressed or the intent that I had with these questions. 18 19 Ο. What was your intent with the questions? 20 I think a little background would be helpful Α. 21 here. 22 At this time Rambus was overstating the 23 progress of their technology on direct RDRAM. They 24 were overstating the level of completion of the 25 solution. And they -- one concern was they were trying

to take this application out to a main memory that would be much higher volume and had different challenges associated than when they were doing their regular RAMBUS for graphics.

5 And so our concern as a manufacturer was that Intel didn't have accurate information about some of 6 these issues, and so we felt if Intel was going to make 7 8 a decision to support a high-volume memory technology 9 that we were going to have to manufacture, they should 10 at least be able to answer these questions and make 11 sure the infrastructure was in place and the level of 12 completion of the solution was to the point that this 13 was a reasonable technical manufacturing

14 infrastructure.

Q. And you didn't think your competitors would come to those conclusions on their own and be able to ask hard questions when Intel visited them? Is that why you prepared these questions?

19 A. No, I don't think that was an inclusion.

20 Q. Why didn't you think that it was up to the 21 competitors -- strike that.

22 Why didn't you think that your competitors, 23 the other DRAM manufacturers, would be able to ask 24 hard questions if they thought it important to ask 25 them?

6885 1 I think they would be able to. Α. Isn't it true that in the SyncLink meeting 2 Ο. there was an agreement made to ask these questions of 3 4 Intel when Intel visited the DRAM manufacturers? 5 Α. I don't know if there was an explicit agreement. I shared the kind of questions that we were 6 going to ask, and we encouraged other people to ask 7 these kind of questions to try to understand, you know, 8 9 where the level of completion was on this and Intel's 10 understanding of these issues. 11 Ο. Well, you thought Intel had been bamboozled by Rambus, in short; right? 12 13 Α. I didn't say that. 14 Did you think Intel had been misled by Rambus Ο. at this point in time? 15 16 Α. I think that Rambus was overstating -- had overstated the level of completion of their effort, the 17 progress of the technology as it applied to main 18 memory, and did not do a lot of consideration into the 19 20 impact it would have on the manufacturing

21 infrastructure to try to bring us up to those kind of 22 production volumes.

23 Q. Did you have any firsthand personal knowledge 24 of anything Rambus had directly told Intel in meetings that led up to Intel's selection of Rambus? 25

I have knowledge of a meeting in December where 1 Α. 2 Intel and Rambus were both present at Micron. 3 O. And that was after Intel had chosen Rambus; 4 correct? 5 Α. Correct. Okay. My question was different. 6 Ο. My question was: Do you have any direct 7 personal knowledge of what Rambus was telling Intel in 8 9 the meetings that led up to Intel's selection of Rambus in 1996? 10 11 Α. My knowledge is through Intel. 12 Your knowledge is what? Ο. 13 Α. Through Intel. They disclosed things that had 14 been asked and said. 15 Q. You weren't at the meetings between Rambus and 16 Intel, were you? 17 Α. No. I was in the meetings between Intel and Micron. 18 19 Ο. Now, do you see on the second page of Okay. 20 this exhibit the statement in the middle that says "The 21 attached e-mail"? 22 It says: "The attached e-mail lists the questions we shall ask Rambus in the 9-12 meeting. All 23 24 consortium members will ask similar questions." 25 Do you see that?

1 A. Yes.

2 Was it your understanding when you sent these Ο. 3 questions out that there was an agreement among the 4 consortium members to ask similar questions when Intel 5 visited them? I don't believe that there was an No. 6 Α. 7 agreement. Now, Intel chose Rambus anyway; right, 8 Ο. Okay. 9 despite these hard questions being asked of them? Direct RDRAM was selected by Intel. 10 Α. 11 Ο. Well, let's look at RX-808. Is this one I have? 12 Α. 13 0. I don't think so. 14 May I? 15 JUDGE MCGUIRE: Go ahead. BY MR. PERRY: 16 17 Now, do you see these are minutes of another Q. SyncLink meeting, this one in December 1996? 18 Α. 19 Yes. 20 And do you see there are three sessions listed, Ο. December 3 in the morning, December 3 in the afternoon 21 22 and December 4? Do you see that? 23 Α. Okay. 24 And do you see that you're listed as attending Ο. all three sessions? 25

1 A. Yes.

2 I just have a couple of questions on the first Ο. 3 two pages of this exhibit. 4 Were you in fact present at the December 1996 5 SyncLink Consortium meeting? I believe so. Α. 6 7 And the first statement attributed to Ο. Mr. Tabrizi says: "It now seems likely that Intel 8 9 will choose Rambus. We need to decide how to 10 proceed." 11 Do you see that? 12 Yes. Α. 13 Ο. Was that your understanding as of December 3 or 4, 1996? 14 15 Α. Yes. And then the statement attributed to 16 Ο. Mr. Chen -- he was a Mitsubishi JEDEC representative; 17 18 right? He attended JEDEC and he was with Mitsubishi. 19 Α. 20 I'm unsure whether he was their official JEDEC 21 representative or not. 22 Q. Well, the next statement at least in these minutes says, "Need executive meeting among suppliers 23 to decide future of consortium." 24 25 Do you see that?

2 And then a little bit further down there's your Ο. 3 name; right? 4 It says, "Thanks to Terry Lee, excellent job on 5 signaling." Do you see that? 6 7 Α. Yes. And under that it says, "We need to get the 8 Ο. 9 supplier executives together." 10 Do you see that? 11 Α. Yes. 12 And then one more statement a little bit Ο. 13 further down: "How many suppliers think we should 14 meet in Japan or Hawaii with executives of 15 corporations?" 16 And there was a hand vote on that question; right? 17 18 Α. Yes. And it says Micron voted yes in favor of such a 19 Ο. 20 meeting; correct? 21 Α. Yes. 22 And you raised your hand and voted yes; right? Ο. I don't know if I was the one who raised my 23 Α. hand or not. 24 25 Q. You agree that it was either you or Kevin Ryan

1

Α.

Yes.

1 who voted yes; right?

2 Well, from the minutes it's someone from Α. Micron. I think we were the two in attendance. 3 4 Q. Well, if you look on page 2, about eight lines 5 down, there's a reference to this executive meeting. Do you see that? 6 7 Just go to that line, "Propose executive meeting." 8 9 Do you see where it says, "Propose executive 10 meeting Friday, January 10, 1997, in Tokyo, with max 11 two people each company, executives"? 12 Do you see that? 13 Α. Yes. 14 And in fact such a meeting occurred on Ο. January 10 in Japan? 15 16 Α. I believe so. I'm not sure of the exact 17 dates. 18 And in fact, prior to this December 1996 Ο. 19 meeting, you had already arranged for Steve Appleton, 20 the CEO of Micron, to propose that kind of a meeting; 21 right? 22 I was requested to do so. I believe that was Α. 23 the case for this meeting. 24 Q. Who requested you to arrange for Mr. Appleton 25 to propose such a meeting?

I believe Farhad Tabrizi was trying to get some 1 Α. 2 executive support and suggested that we might get Steve 3 to propose to also have an executive meeting to discuss 4 this issue. 5 Q. Did you talk to Mr. Appleton directly about getting an e-mail or a letter from him proposing such a 6 7 meeting? I don't recall if it was an e-mail or a phone 8 Α. 9 conversation or a face-to-face discussion. 10 O. Well, let's look at that e-mail from 11 Mr. Appleton, and then we should probably take a little, short break, if that's all right with you, 12 13 Your Honor. 14 JUDGE McGUIRE: Anytime. If you want to do it now, we'll do it now. 15 16 MR. PERRY: Let's just do this one. It's RX-801. 17 18 May I? 19 JUDGE McGUIRE: Yes. 20 BY MR. PERRY: 21 And if you'll see about two-thirds of the way Ο. 22 down the first page -- and these were produced to us by 23 Hans Wiggers. You remember him being at SyncLink 24 meetings; correct? 25 A. Yes.

1 Q. And there appears to be an e-mail from 2 Mr. Tabrizi dated November 11 -- I'm sorry --November 27, 1996 that says: "Gentlemen, I would like 3 4 to forward the following message that I received from 5 Mr. Steve Appleton, the president and CEO of Micron Technologies." 6 7 And I'm not going to ask you anything about Mr. Tabrizi's e-mail, but I will ask you about the 8 9 Appleton e-mail that appears on the next page. MR. OLIVER: Objection, Your Honor. Could we 10 11 have some foundation as to whether Mr. Lee has seen 12 this document. 13 MR. PERRY: My first question was going to be 14 did he review it before now, did he ever write it, who did, that kind of thing. 15 16 JUDGE McGUIRE: Go ahead. BY MR. PERRY: 17 Take a minute and read it to yourself. 18 Ο. 19 Α. Okay. 20 (Pause in the proceedings.) 21 Okay. 22 Q. Now, you cettHonor. es MoutlilQ. Take a minu

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1 to Mr. Tabrizi?

2 I don't recall the exact Α. I probably did. 3 process that went about in this -- in creating this e-mail. 4 5 Ο. Did you help draft it? I just said I don't recall exactly how -- what 6 Α. 7 the process was. Q. Well, I'm not asking exactly how the process 8 9 worked. I'm asking you if you helped draft it. 10 If you mean by help drafted it did I either Α. 11 provide input or did I proofread it? I probably did. 12 Ο. Did you provide input? 13 Α. I probably did. 14 Did you talk to Mr. Appleton about the words Ο. that were going to go into the e-mail to Mr. Tabrizi? 15 16 Again, I don't recall if there was an e-mail, Α. 17 if there was a phone call or a face-to-face 18 discussion. When the e-mail went from Mr. Appleton to 19 Ο. Mr. Tabrizi, you understood that it was going to be 20 21 circulated then around DRAM manufacturers; right? 22 Yes, I did. In the consortium. Α. 23 In the SyncLink Consortium; right? Ο. 24 Α. That's correct. 25 And was the triggering event that motivated the Ο.

sending of this e-mail Intel's decision to choose
 Rambus for the next-generation technology?
 A. I'm not sure that Intel had made a decision at

4 this time or, if they had, whether they communicated
5 it. I don't think we were aware of their decision
6 until later in December.

7 I think the question that came up, as you saw 8 in the meeting minutes, is it seemed likely that they 9 would and should we consider these -- should we 10 continue these efforts or not. Considering the fact 11 that Intel platforms were going to use direct RDRAM, I

Did you agree with Mr. Appleton's statement 1 2 that the cooperation among the suppliers was 3 unprecedented in the industry? 4 Α. From a technical standpoint, the progress we 5 made in terms of progressing the specification of SLDRAM from roughly that first visit in August to that 6 7 time in November I believe was unprecedented in terms 8 of the technical progress. 9 Ο. Did you believe that the cooperation among the 10 suppliers in the SyncLink Consortium was unprecedented 11 in any other way besides technical? 12 It was strictly a technical development. Α. 13 0. The next sentence says, "In consideration of 14 the recent developments in the DRAM industry, I would like to emphasize the importance of the SyncLink 15 efforts." 16 17 Do you see that? 18 Α. Yes. And you understood at the time the reference to 19 Ο. 20 the recent developments to be Intel's looming decision 21 to choose Rambus; right? 22 Α. I understand it to be a little more complicated than that. 23 24 Ο. Was that part of it? 25 Α. Pardon me?

1 Q. Was that part of it?

2 A. Yes.

3 In the third paragraph it says, "We also 0. 4 believe the future health of the DRAM industry will 5 rely upon the suppliers' ability to generate new intellectual property for high-frequency DRAMs." 6 7 Do you see that? 8 Α. Yes. 9 Ο. Did you agree with that statement at the time? 10 I agreed with I believe what he meant by that Α. 11 statement. 12 And what did you think -- well, strike that. Ο. 13 What basis did you have for understanding what 14 Mr. Appleton thought in that sentence? 15 Let me lay a foundation. 16 Had you talked to him about this sentence? As I mentioned, I would have been involved in 17 Α. 18 that review process of reviewing it before it went out. I don't recall if it was an e-mail discussion, a 19 20 telephone discussion or a face-to-face discussion. 21 Q. Did you have an e-mail, telephone or 22 face-to-face discussion with Mr. Appleton about the meaning of that sentence? 23 I had one of those three about this document. 24 Α. 25 But I can't tell you sentence by sentence.

1 So you don't know if you had any firsthand 0. 2 personal knowledge about what Mr. Appleton meant by 3 that sentence, you just don't know one way or the 4 other? 5 Α. I have firsthand knowledge of what was meant by the content of the whole e-mail. I think we're getting 6 7 down to wordsmithing now, so ... Q. I'm just asking about that sentence. 8 9 Do you have any firsthand personal knowledge of 10 what was meant by Mr. Appleton in that sentence? 11 Α. I believe I understood what was meant. 12 I'm not asking about what you understood in 0. 13 this question. 14 Do you have any firsthand personal knowledge about what Mr. Appleton meant in this sentence? 15 I believe I do. I believe I understood what he 16 Α. Firsthand, I believe I understood what he 17 meant. Maybe I don't understand the question but --18 meant. 19 Ο. I'm not asking about your understanding. I'11 get there. But right now I'm asking about whether you 20 21 have firsthand personal knowledge of what Mr. Appleton 22 meant, in other words --JUDGE McGUIRE: Maybe you should clarify what 23 24 you mean by that, Mr. Perry. 25 MR. PERRY: Thank you. I will.

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1 BY MR. PERRY: 2 Did you talk to Mr. Appleton about that 0. 3 sentence? 4 Α. I don't recall if there was a specific 5 discussion on that particular sentence. Did you have an e-mail discussion with 6 Ο. 7 Mr. Appleton about that sentence? It would be the same answer. 8 Α. 9 Ο. Did you have a telephone call with him about that sentence? 10 11 Α. Same answer. 12 Did you draft the sentence? Ο. 13 Α. I don't recall. 14 Q. Do you know who did? 15 I don't recall if Steve drafted it or I Α. 16 provided a rough draft or I reviewed his. 17 Q. Look in the last paragraph. 18 Do you see in the third sentence -- I'm sorry -- the second -- yeah, the third sentence -- it 19 20 says "We also feel"? 21 "We also feel that the success of SyncLink 22 relies on the broad support of all DRAM suppliers." 23 Do you see that? 24 Α. Yes. 25 "For this reason, we encourage a meeting of Ο.

1 DRAM supplier executives to discuss how the DRAM 2 industry can provide uniform support for SyncLink." 3 Do you see that? 4 Α. Yes. 5 And is it your testimony that it was Ο. Mr. Tabrizi who first suggested to you that 6 7 Mr. Appleton suggest a meeting of DRAM supplier executives? 8 9 Α. Yes. 10 And who did you pass that request on to? Ο. 11 Α. It would have been passed it on to Steve. 12 By you directly? Ο. Probably. 13 Α. 14 Q. Was that in writing? 15 I don't recall. Α. 16 Did you ask him to go to Japan to that Ο. meeting? 17 Steve did not go to that meeting. I don't 18 Α. recall if he was one of the people that were asked. 19 20 They requested an executive attend. 21 Ο. You went to that meeting; right? 22 Α. Yes. Well, let's look back for just a second, 23 0. 24 finish up the minutes of the December '96 meeting, to RX-808. 25

Do you have that in front of you? 1 2 Α. Yes. 3 Ο. The minutes of the December 1996 SyncLink 4 meeting? 5 A. Yes. On the top of the second page, it says: 6 Ο. "Many 7 suppliers are paranoid over the process of a single customer, e.g., Intel, having control of the market. 8 9 We can't resist such a possibility individually. We 10 need some united strategy." 11 Do you see that? 12 Yes. Α. 13 Ο. Was that Mr. Tabrizi who said those things at 14 the meeting? 15 It's not clear from the notes here, from the Α. 16 minutes, whether it was him. 17 Q. Was it you? I don't believe it was. 18 Α. 19 Did you agree with those sentiments? Ο. 20 Not exactly. Α. 21 MR. PERRY: If we could take a break, 22 Your Honor, this would be a good time. 23 JUDGE McGUIRE: All right. I want to ask about 24 that sentence. I'm not clear exactly from what it says 25 as to what it means. Maybe you could I guess clarify

1 that, you know, to your own understanding of that 2 sentence, Mr. Lee.

3 What did that mean to you? THE WITNESS: Okay. We had customers -- again, 4 5 a little background if I can. We had customers who were concerned that they 6 7 didn't have equal access to new memory technology because at that time direct Rambus was under NDA and 8 9 there were certain customers who didn't necessarily use 10 Intel processors and had no communication with them, 11 customers such as Apple and Sun and companies like 12 that.

13 So there was a concern from customers that 14 Intel would be able to control the future memory 15 technology and not give equal access to the 16 information.

17 So there was a concern from our customers to us 18 about this problem, so the part of the reason why I 19 don't completely agree with this is it says "many 20 suppliers are paranoid." If they are, it's through the 21 concerns of their customers.

JUDGE McGUIRE: All right. Mr. Perry, do you
want to follow up?

24 MR. PERRY: If I could, Your Honor.

25 JUDGE McGUIRE: Go ahead.

BY MR. PERRY:

1

2 0. And those customer concerns were sufficiently 3 substantial in your view that you agreed that the 4 manufacturers needed a united strategy to deal with 5 them; is that right? No. I don't necessarily agree with that. 6 Α. So did you do anything to correct any 7 Ο. Okay. misimpression that might be left by these statements in 8 9 the minutes? 10 Α. I don't recall if there was any rebuttal during 11 the meeting discussion. If you mean by correcting 12 minutes -- I don't think I did anything there, because if the minutes accurately stated what was said, they 13 14 may not need correction. Okay. And then the line just below what I read 15 Ο. 16 talks about an Internet reflector. Do you see that? 17 It says, "supply@hea.com is the supplier reflector, maintained by Tabrizi." 18 19 Do you see that? 20 Α. Yes. 21 Ο. And you understood that to be a mechanism 22 whereby e-mails could be sent around the different DRAM 23 manufacturers; is that right? 24 Α. It's essentially a distribution list, if you It's a reflector. You can send it to one name 25 will.

and it distributes out, but it's essentially a 1 2 distribution list of people I believe that were just in 3 the SyncLink Consortium. 4 O. So that means that one DRAM manufacturer who 5 was a consortium member could send an e-mail to that reflector and it would be sent to whoever was on the 6 7 distribution list; right? 8 Α. Right. 9 MR. PERRY: Okay. If we could take a break, 10 Your Honor. 11 JUDGE McGUIRE: Okay. Let's take a ten-minute 12 break. 13 (Recess) 14 (DX Exhibit Number 118 was marked for 15 identification.) 16 JUDGE McGUIRE: This hearing is in order. You may proceed, Mr. Perry. 17 MR. PERRY: Your Honor, if I could just give 18 you a time estimate. I believe we will definitely 19 20 need a lunch break, but I believe I will be less than 21 the 5:15 stop yesterday but perhaps 3:00, more likely 22 4:00. 23 JUDGE McGUIRE: Okay. Very good. You're 24 talking about in terms of your cross? 25 MR. PERRY: Mine.

1 JUDGE McGUIRE: Okay.

2 MR. PERRY: Yes.

3 BY MR. PERRY:

Q. Mr. Lee, if you could look back at that
December 3, 1996 SyncLink Consortium meeting minutes

6 for just a second. That's RX-808.

7 Do you have that?

8 A. Yes.

9

Q. And look on page 3.

Do you see about, oh, two-thirds of the way down the page there's a statement attributed to you? It says "T. Lee."

13 A. I see a couple.

Q. It says, "T. Lee: Consortium needs its own attorney to handle press releases, contracts, antitrust concerns."

17 Do you see that?

18 A. Yes.

Q. Did you explain in the meeting itself whatantitrust concerns you were talking about?

21 A. I don't recall the antitrust concerns, no.

Q. Do you believe that you explained in the meeting what your concerns were?

23 meeting what your concerns were?

A. I'm sorry. I don't recall that statement.Q. Had you talked prior to this time with

nonlawyers at Micron about any antitrust concerns 1 2 involving the SyncLink Consortium? 3 Α. No. 4 Q. Well, let's move on if we could to that 5 January 1997 meeting of the SyncLink Consortium executives in Tokyo where you were present, and I'll 6 7 show you a proposed agenda. That's RX-845. May I? 8 9 JUDGE McGUIRE: Yes. BY MR. PERRY: 10 11 Ο. And the first page of this appears to be a 12 proposed agenda, and I can tell that in part because 13 the second page appears to be an e-mail or a letter 14 that describes a proposed agenda. 15 Take a look at it and see if you were one of 16 the folks who got this in December 1996 from Mr. Tabrizi. 17 Yes, I did. 18 Α. And the proposed agenda on the first page in 19 Ο. 20 the second item, it references you. 21 Do you see that? 22 Α. Yes. It says "Technical overview and progress 23 0. 24 report, Terry Lee, SyncLink (Micron)." 25 Do you see that?

1 A. Yes.

2 Ο. And you went to the Tokyo executive meeting in 3 January 1997; right? 4 Α. Yes. 5 Did you give a presentation? Ο. Yes. 6 Α. 7 Gene Cloud went along with you; right? Ο. I believe it was Gene. 8 Α. 9 Q. What was his position at Micron at the time? 10 He was vice president of marketing. Α. 11 Q. Was he your boss? 12 Α. He was my eventual boss. I reported to Jeff, 13 who reported to Gene. 14 Mr. Mailloux reported to Mr. Cloud at the Ο. 15 time? Α. 16 Yes. I believe so. 17 And who did Mr. Cloud report to? Q. Steve Appleton. 18 Α. Let me show you something that relates to that 19 Ο. 20 meeting that was marked at your deposition as RX-849. 21 Actually it's been marked for trial as RX-849. 22 May I? JUDGE McGUIRE: Go ahead. 23 BY MR. PERRY: 24 25 The cover says "SyncLink Consortium Executive Ο.

Meeting, Yokohama, Japan, January 10, 1997." 1 2 Do you recognize these to be a collection of 3 slides or PowerPoint presentations that were given to 4 the various DRAM manufacturer executives at that 5 meeting? 6 Α. Yes. And if you look on the second page of the 7 Ο. agenda -- we can pull up the bottom slide -- and that 8 9 says "Discussion of SyncLink advantages - Terry Lee." 10 Do you see that? 11 Α. Yes. 12 And there's two bullet points under that, Ο. 13 technical advantages and intellectual property 14 advantages. 15 Do you see that? 16 Yes. Α. 17 Now, in the proposed agenda that we had seen Q. before, I didn't see anything about intellectual 18 19 property advantages in the proposed agenda next to your 20 Perhaps I was just missing it. name. Do you know why -- well, strike that. 21 22 Had someone asked you to talk about 23 intellectual property advantages at this meeting? I believe Farhad Tabrizi set up the agenda. 24 Α. 25 And did he ask you in particular to talk about Ο.

intellectual property advantages to SyncLink? 1 2 I believe he created an agenda of some items Α. 3 and then selected or asked people to present sections 4 of the agenda. 5 Do you see that there's some page numbers in Ο. the lower left corner and this one says "page 2"? 6 7 Α. Yes. Q. 8 Let's look at page 23 if we could in the lower 9 left corner. 10 And if we could pull up the bottom slide, it 11 says "SyncLink Advantages" and it's dated January 10, 12 1997; right? 13 Α. Yes. 14 And is that a slide that you presented as part Ο. 15 of your presentation to the executives? 16 Α. Yes. 17 And the next page are two slides that you Q. prepared and presented as part of your presentation? 18 19 Α. Yes. 20 And the next page, page 25, has two slides that Ο. 21 you prepared and presented as part of your 22 presentation? 23 Α. Yes. 24 And the next page, page 26 of the exhibit, are Ο. 25 two slides that you prepared and presented as part of

1 your presentation to the January 10 meeting of

2 executives?

3 A. Yes.

Q. And let's look at the top one. It says "Other
SyncLink Advantages."

Do you see that?

7 A. Yes.

6

Q. The first one, the first bullet point says9 "nonproprietary."

10 What message were you intending to deliver to 11 the DRAM manufacturer executives you were talking to 12 when you described SyncLink as nonproprietary?

A. By that message I meant that our customers were
able to have access to this without NDAs. It was
freely -- information was freely available to anybody.

Q. So that message, your message from -- when you were talking about nonproprietary, that didn't have anything to do with the royalties that people might have to pay in the future to make, use or sell the SyncLink device; is that right?

21 A. Yes. Mine had to do with basically open, open 22 spec.

Q. All right. Well, the third point says "Lowercost (yield and license fees)."

25 Do you see that?

1 to the SyncLink device; right?

2 A. Yes.

Q. And you were saying that was an advantage to4 SyncLink; right?

5 A. Yes.

Q. And then the next slide down at the bottomtalks about intellectual property issues.

8 Do you see that?

9 A. Yes.

10 Q. The second bullet point says, "Future

11 high-speed DRAM patents will be developed by those

12 companies defining/developing new high-speed DRAMs -

13 what companies will this be?"

14 Do you see that?

15 A. Yes.

Q. Now, you knew at the time that Rambus was one of the companies that was defining and developing new high-speed DRAMs; right?

19 A. That's correct.

20 Q. And was your question to the audience: Will 21 your company also be doing that? Is that the question 22 you're presenting?

A. Yeah, my question was which companies are going
to be involved in defining and developing new
high-speed DRAMs going into the future.

And the third bullet point says, "Future 1 0. 2 high-speed DRAM generations may use additional 3 intellectual property and have higher licensing fees -4 your company may have a permanent IP disadvantage." 5 Do you see that? 6 Α. Yes. What message were you delivering? 7 0. The background of that is that at the time 8 Α. 9 that direct RDRAM came out, the solutions that Intel 10 had seen in the industry were not as technically 11 advanced as where they wanted to be with their 12 next-generation platform. That's the message Intel 13 sent to us. 14 And so the concern is that in the future, if we didn't develop some more techniques and more, you know, 15 16 sophisticated high-speed DRAM techniques, that in the future we would not be involved with the development of 17

future technology with Intel, and we found that to be a disadvantage because of the fact we weren't involved with direct RDRAM, didn't consider many of the manufacturing issues.

Q. Were you also concerned about not having IP, intellectual property, that you could use to cross-license with Rambus?

25 A. I don't believe that was the concern.

Q. Didn't you understand within Micron -- putting this meeting at SyncLink aside for a moment, didn't you understand within Micron that there was an effort made to obtain patents that lay in the development path of Rambus as you saw it?

A. I understand that the purpose of the patents
was to lay in the path to enable inventions for future
BRAM technology.

9 Q. Didn't you understand that there was an effort 10 within Micron at some point in time to obtain patents 11 that Micron hoped would be in the development path of 12 the Rambus DRAM devices?

A. How do I know what the development path ofRambus DRAM devices would be in the future?

MR. PERRY: Your Honor, I don't believe that's responsive to the question.

JUDGE McGUIRE: I'll strike the answer. Couldyou restate it.

And you answer the question as asked, Mr. Lee.BY MR. PERRY:

21 Q. Do you have the question in mind?

A. Could you repeat it, please.

23 MR. PERRY: I'll ask the reporter to read it.

24 (The record was read as follows:)

25 "QUESTION: Didn't you understand that there

was an effort within Micron at some point in time to 1 obtain patents that Micron hoped would be in the 2 3 development path of the Rambus DRAM devices?" 4 THE WITNESS: And I'll have to answer no as the 5 way that was stated. BY MR. PERRY: 6 Were you ever aware within the 7 Ο. SyncLink Consortium of any efforts that were ongoing or 8 9 that had been made to avoid Rambus intellectual 10 property in the development of the SyncLink device? 11 Α. I'm aware that there were efforts to avoid IP in general, whosever it was. 12 Were you aware as of this meeting in 13 0. 14 January 1997 of any statements in the past by Rambus that SyncLink might infringe Rambus intellectual 15 16 property? I don't believe I was aware of those 17 Α. statements. 18 Had Terry Walther ever told you that he had 19 Ο. 20 been present at a SyncLink meeting where someone made 21 the statement: Rambus has 16 patents already with more 22 pending. Rambus says their patents may cover our 23 SyncLink approach? 24 Did Mr. Walther ever tell you that? 25 Α. I don't recall.

Q. Did you ever have any discussions, prior to 1 2 this January 1997 presentation to DRAM manufacturer 3 executives, with anyone at Micron where that person 4 told you that they had heard at a SyncLink meeting that 5 Rambus had said their patents may cover SyncLink? I don't recall that specifically. We felt we 6 Α. 7 had a very different device than Rambus. Who's "we" in that answer? 8 Ο. 9 Α. Micron. I think the question was about Micron 10 internal. 11 Ο. Did any SyncLink Consortium member ever tell 12 you that Rambus had stated to SyncLink that the 13 SyncLink device may infringe Rambus intellectual 14 property? 15 I don't remember a conversation like that. Α. 16 Prior to being deposed in various lawsuits, had Ο. 17 you ever seen written in SyncLink Consortium minutes the statement that Rambus had asserted that the 18 19 SyncLink device may infringe Rambus intellectual property? 20 I don't recall that information. 21 Α. 22 Did anyone tell you prior to this January 1997 Ο. presentation that you made that Richard Crisp had 23 24 informed SyncLink that both RamLink and SyncLink may 25 violate Rambus patents that date back as far as 1989?

I don't recall that information, no. 1 Α. 2 Ο. Did anyone at this January 1997 executive 3 meeting say in connection with your presentation that 4 they had heard Rambus assert that the SyncLink device 5 might be infringed by -- might infringe Rambus intellectual property? 6 I don't recall all the discussions that took 7 Α. 8 place at the executive meeting. Rambus certainly never 9 made that statement to Micron. 10 Q. You don't know -- you weren't present for every 11 time there was a Rambus person and a Micron person in the same room, were you? 12 13 Α. No. 14 And you weren't at JEDEC meetings where Rambus Ο. made statements about its intellectual property, were 15 16 you? 17 I don't recall if there were statements made by Α. Rambus about any IP while I was there. I don't recall 18 that. 19 20 And you didn't participate in face-to-face Ο. 21 licensing negotiations between Micron and Rambus; 22 correct? You weren't in the room when those license 23 24 negotiations were going on with Rambus; correct? 25 I was involved with part of it when there was a Α.

meeting prior to the actual financial discussion. 1 2 And that's the --0. That included Rambus. 3 Α. Q. What's the date of that meeting? 4 5 I believe that was roughly December of '96. Α. That was a technical meeting? 6 Ο. Primarily technical. 7 Α. Well, getting back to this SyncLink Consortium 8 Ο. 9 presentation, the other item on this page that we haven't talked about under Intellectual Property 10 11 Issues, it says, "SyncLink is filing on six patents, 12 several more patent filings are being pursued." 13 Do you see that? 14 Α. Yes. 15 And you were the named inventor on one of those Ο. 16 patents for the SLDRAM pinout; right? I don't recall what the specific patents were 17 Α. that they filed. 18 But you understand that for a patent 19 Ο. 20 application to be filed an inventor needs to fill out 21 an affidavit generally saying that they're one of the inventors on the patent? 22 23 Α. Yes. 24 Let's go back if we could to page 4 of this set Ο. of slides. 25

1 And do you see that that says -- page 4. Thank 2 you. It says "SyncLink Overview, Farhad Tabrizi." 3 4 Do you see that? Page 4 in the lower left 5 corner? 6 Α. Yes. 7 Okay. And were you present for Mr. Tabrizi's Ο. presentation at this January 1997 meeting? 8 9 Α. Yes. 10 Look on page 6. The bottom slide says Ο. 11 "Patents." 12 Do you see that? One of the patents that's listed there is 13 14 system architecture. 15 Are you one of the named inventors on that 16 patent? I don't recall which patents I was named 17 Α. inventor on. I don't see one here about packaging that 18 19 you referred to earlier. 20 Q. Would you look, please, at page 27, the lower 21 left corner. 22 I'm sorry. 26. 26, right. 26. Sorry. 23 You're on 26, Mr. Lee? 24 Α. Yes. 25 That's the one we just talked about? Ο.

1 A. Yes.

2	Q.	And you said you prepared these slides.	
3		I want you to turn now to page 27, and you	
4	prepare	d and presented those two slides as well?	
5	Α.	Yes.	
6	Q.	Now, let's pull up the top one.	
7		That says "Intellectual Property Issues	
8	(continued)." Does that? C-O-N-T?		
9	Α.	Yes.	
10	Q.	And C-O-N-T meant continued?	
11	Α.	From the prior slide.	
12	Q.	Right.	
13		And that says, "Could the consortium be used	
14	to:		
15		"Challenge existing patents?	
16		"Create new patents necessary for the successor	
17	to nDRAM?		
18		"Address DRAM business legal concerns?"	
19		Do you see that?	
20	A.	Yes.	
21	Q.	And let me talk about that middle bullet	
22	first.		
23		What you told the member company executives,	
24	what you asked them is a question: Could the		
25	consort	consortium be used to create new patents necessary for	
		For The Record, Inc.	

1 the successor to nDRAM?

2 Do you see that?

3 A. Yes.

Q. And the question you were asking them was do
you want to try to lay down patents in the development
path of the Rambus device; right?

7 A. That's incorrect.

Q. What you were saying to them was, at some point if Rambus becomes the next-generation memory device, there's going to be a successor to Rambus, and you wanted the industry to hold the IP, the patents, that Rambus would need to make that next-generation

13 device?

14 A. That's incorrect.

15 Q. Is that what you were saying?

16 A. No. Your statement is incorrect.

Q. Well, the first question, it says, "Could theconsortium be used to challenge existing patents?"

19 Do you see that?

20 A. Yes.

21 Q. Was part of that question about Rambus'

22 patents?

A. The whole statement, the whole foil was to -was kind of a brainstorming as to what we wanted to do with this consortium. It was the first time we had

such kind of a group, and the question that we were 1 asking the executives is what do we want to do, should 2 3 we do anything here regarding the patents, do we want 4 to challenge patents out there, do we want to create new patents, what should we do with this legal entity. 5 Well, you had seen from Mr. Mailloux's 6 Ο. December 1996 e-mail that he at least felt that there 7 were many Rambus patents that were invalid because of 8 9 prior art. Do you remember that statement? 10 His statement was based upon the information Α. 11 that Kevin Ryan and I had given to him which we talked 12 about earlier, so I don't think that's --13 characterization is exactly what I stated. 14 O. You saw that Mr. Mailloux had told the CEO of Micron in Exhibit RX-829 that we think many Rambus 15 16 patents read on prior art or other patents. Do you remember that statement in the memo from Mr. Mailloux 17 to Mr. Appleton? 18 19 Α. No. 20 Do you remember it? 0.

21 A. I remember the statement.

22 Q. Right.

And then one month later to the day, you prepare and present a slide that you delivered to DRAM manufacturer executives that said, "Could the

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consortium be used to challenge existing patents?" 1 2 That's what you said; right? 3 That's correct. Α. 4 And weren't you saying at least in part to the Q. 5 DRAM manufacturer executives that this consortium might be useful in challenging Rambus patents? 6 7 No. This says "existing patents." There's no Α. statement of Rambus here. 8 9 Ο. Didn't you anticipate that litigation against 10 Rambus might be necessary as of the time you gave this 11 presentation? No. I don't recall that. 12 Α. 13 0. The clip art you used is a picture of a judge 14 in a wig. 15 Do you see that? 16 Yes. Α. 17 Why did you use that? Q. 18 Because it's a legal discussion. It's about Α. 19 intellectual property, so that's a legal issue, isn't 20 it? 21 Ο. Well, you understood at that time that judges 22 don't decide whether a patent should be issued; right? 23 No, actually I don't understand that. Α. 24 You understand the patent office issues Ο. 25 patents?

1 A. I understand that.

2 Q. You think the patent office is staffed with3 judges?

4 A. I really don't know.

Q. Okay. You were talking about litigation here
in this message, weren't you, you were talking about
lawsuits?

8 A. No.

9 Q. When it says, "Could the consortium be used to 10 challenge existing patents," was that a question about

manufacturer -- the supplier executives to talk to each 1 2 other about issues they might not be able to talk to otherwise -- talk about otherwise? 3 Α. No, sir. 4 5 What were the DRAM business legal concerns that 0. you were talking about in this message? 6 I don't recall the specifics. It was kind of 7 Α. a broad topic. I never had any discussions about DRAM 8 9 creating some sort of scenario that you just described. 10 11 Q. You had raised at the prior SyncLink Consortium 12 meeting an issue about the need for lawyers to give 13 antitrust advice. Do you remember seeing that? 14 It's in the minutes. Do you remember seeing that in the minutes? 15 16 I remember seeing something different than what Α. 17 you stated. It says "antitrust concerns"? 18 Ο. 19 Α. Right. 20 You had raised a question about the need for a Ο. 21 lawyer to advise the consortium on antitrust concerns, 22 correct, at the December meeting; right? 23 Α. I don't think what I put in there was quite that -- can I refer to that? 24 25 You can refer back to the minutes? Ο. Is that

1 what you want to see? Sure.

2 Do you see the reference to antitrust 3 concerns? 4 A. Yeah. What it says is: "Consortium needs it 5 own attorney to handle press releases, contracts, antitrust concerns." 6 So you had raised an issue at the prior 7 0. 8 consortium meeting about whether the consortium needed 9 an attorney to handle antitrust concerns; right? 10 Α. Correct. 11 Ο. And this reference in this slide in 12 January 1997 where it says "Could the consortium be used to address DRAM business legal concerns," that was 13 14 at least in part about those antitrust concerns? 15 I don't recall what the specifics were of that Α. 16 statement. Well, look down at the slide on the 17 Q. Okay. bottom of page 27 where it says "Technical Summary." 18 The third bullet -- I'm sorry -- the fourth bullet: 19 20 SyncLink should continue to be supported to establish 21 future intellectual property and to protect the future 22 of the DRAM industry. 23 Do you see that? 24 Α. Yes. 25 And by "DRAM industry" you meant the Ο.

1 manufacturers; right?

Yes, I believe that's what was intended. 2 Α. 3 And what you were saying there is that the 0. 4 manufacturers should jointly support SyncLink in order 5 to establish intellectual property that would cover future high-bandwidth, high-speed DRAM devices? 6 Α. So we could develop innovation for future DRAM 7 products. 8 9 Q. Well, you can do innovation without getting 10 patents on it; right? 11 Α. I think the purpose there is to protect the work that was done so that somebody else wouldn't 12 13 assert a patent against the work that we had done. So that if they did, you would have a patent 14 Ο. that would be required for a cross-license; correct? 15 16 So we'd have a patent to defend the work that Α. we'd done. 17 Did you believe as of January 1997 that Rambus 18 Ο. 19 had been stealing the intellectual property of the SyncLink or RamLink working groups? 20 21 Α. I'm not sure I understand. 22 Did you ever hear, prior to this time, did you Ο. 23 ever hear anybody suggest in a SyncLink meeting that 24 Rambus had stolen some ideas from RamLink or SyncLink? 25 I don't think I ever heard that, no. Α.

Q. Okay. And then it says "to protect the future
 of the DRAM industry."

What was it about the intellectual property that you thought the DRAM manufacturers should have covering future high-speed DRAMs that would protect the future of the DRAM industry in your view?

A. Yeah. This goes back to my prior statement that going forward we need to provide more innovative solutions so that -- Intel was trying to push the envelope, if you will, in terms of technology for high-speed DRAMs, and so for us to participate in that development with Intel in the future, we had to create innovation.

14 Q. So that didn't refer at all to intellectual 15 property; right?

A. Pardon me?

16

Q. It just meant innovation; you weren't referringto intellectual property?

A. Well, my understanding is what the innovationwe'd need to file patents to protect that work.

21 Q. Had somebody told you that?

22 A. I don't recall a specific discussion.

23 Q. Okay.

A. If I had gotten any information like that, itprobably would have been through our counsel.

1 Q. Well, as I said before, I'm not asking for your 2 conversations with counsel. 3 Α. Okay. 4 Q. Why don't you look on page 38. I'm sorry. 5 It's actually page 43 in the lower left-hand corner. Ι got confused by the page numbers. 6 7 Do you see the bottom slide says "Discussion of Long-Term DRAM Industry Outlook if SyncLink Is Not 8 9 Successful"? Do you see that? 10 Α. Yes. 11 Ο. And if you'll look back on page 3 of the 12 exhibit, it says that that topic is going to be covered 13 by Farhad Tabrizi. 14 Do you see that on the agenda? 15 It's on the screen. It says "Discussion of the 16 Long-Term DRAM Industry Outlook if SyncLink is not Successful -- Farhad Tabrizi." 17 18 Do you see that? 19 Α. Yes. 20 Did Mr. Tabrizi present these slides? Ο. 21 Α. I believe he did. 22 And if you'll look on page 44, it starts with Ο. 23 historical events. Do you see that? 24 And then after these historical events it says, "What is next?" 25

1 And Mr. Tabrizi presented that slide; right? 2 Α. Yes, I believe so. 3 And then the slide at the bottom says "Possible Ο. future scenarios if SyncLink is not the next-generation 4 5 memory solution." Do you see that? 6 Α. Yes. 7 So is it correct that as of this time, 8 Ο. 9 January 10, 1997, there was still the prospect that 10 Intel would change its mind and choose SyncLink 11 instead of Rambus for the next-generation memory solution? 12 13 Α. Do you mind if I read this? 14 Q. Sure. 15 MR. OLIVER: Your Honor, if I could just ask for clarification. 16 17 You're asking this witness' understanding? MR. PERRY: Yes. 18 (Pause in the proceedings.) 19 20 THE WITNESS: Okay. So the question again? 21 MR. PERRY: May I ask the reporter to read it 22 back? 23 JUDGE McGUIRE: Yes. Go ahead. 24 (The record was read as follows:) 25 "OUESTION: So is it correct that as of this

time, January 10, 1997, there was still the prospect 1 2 that Intel would change its mind and choose SyncLink instead of Rambus for the next-generation memory 3 solution?" 4 5 MR. OLIVER: Your Honor, again, subject to the same clarification that it's the witness' 6 7 understanding. JUDGE McGUIRE: Noted. 8 9 THE WITNESS: Okay. Regarding the question, Intel had already chosen the solution at this time, so 10

I believe at this point we knew their decision was made

11

1 Intel usage.

2 Q. Didn't you hear at SyncLink meetings people say 3 in substance that Intel wouldn't change its mind unless 1 A. I see it.

2 Ο. And you were present when he made it? 3 I was present when we did this presentation. Α. 4 Did he explain how gross margins would decline Q. 5 if Intel continued down the path of using Rambus as the next-generation memory device? 6 Α. I don't recall. To be honest, I don't 7 completely understand this first bullet. 8 9 Ο. Well, look at the third bullet. 10 Did Mr. Tabrizi say that if SyncLink was not 11 the next-generation memory solution, Intel would obtain 12 intellectual property for the nDRAM interface? 13 Α. That's what the title and the bullet says. 14 Did he express a concern at the meeting that Ο. the DRAM manufacturers would not have the intellectual 15 16 property with respect to the Rambus device that Intel had chosen? 17 I'm sorry. I really don't understand some of 18 Α. what's in this foil. 19 20 Okay. Well, look --0. 21 Α. I don't recall the discussion on it. 22 Let's look at the last bullet. Ο. 23 Okay. Α. 24 Did Mr. Tabrizi tell the assembled group of Ο. 25 DRAM manufacturer executives at this meeting that if

1 SyncLink was not the next-generation memory solution, 2 a single source CPU manufacturer and chipset manufacturer would control the demand-supply 3 4 situation? 5 Α. Okay. I remember some discussion on the last couple bullets. And I believe he said that. 6 And was that a reference to Intel? 7 Ο. MR. OLIVER: Objection, Your Honor. 8 9 Again, are we asking for this witness' 10 understanding? 11 JUDGE McGUIRE: Right. So noted. 12 MR. PERRY: I'm sorry. 13 BY MR. PERRY: 14 Q. Was it your understanding that was a reference 15 to Intel? 16 Α. Yeah, my understanding of what he was discussing in those last two bullets was I think he was 17 playing out or replaying a scenario that happened with 18 cache SRAM. He kind of described what happened in the 19

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bitterness amongst some of the DRAM manufacturers about 1 2 what had happened when Intel had control over cache 3 SRAM? 4 Α. I don't know if there was bitterness or not. 5 There was concern that it was a bad scenario and they didn't want it to happen in the future. 6 Q. And one of the things that was bad about it was 7 the gross margins of the DRAM manufacturers were pretty 8 9 low on cache SRAM; is that your understanding? 10 MR. OLIVER: Objection, Your Honor. Lack of 11 foundation. 12 JUDGE McGUIRE: Sustained. 13 BY MR. PERRY: 14 Did you have any understanding as to why it was Ο. 15 bad? 16 I understood it was bad because they were Α. 17 gaining control of the supply in the market. I think ultimately cache pretty much just went away and they 18 19 integrated into the processor, so I'm not sure about what margins mean in that case. 20 21 Ο. Okay. The last line on this slide, did 22 Mr. Tabrizi deliver the message to this assembled group 23 that if SyncLink was not the next-generation memory 24 solution, all DRAM companies will become foundries for 25 Intel?

1 A. I think he did.

2 Now, Mr. Cloud joined you for that meeting; 0. 3 correct? 4 Α. I believe Gene was the one that attended. 5 Did you take notes at that meeting? Ο. I probably took some notes. 6 Α. 7 And were your notes subsequently provided to Ο. all the other DRAM manufacturers? 8 9 Α. I don't recall the exact event. There were 10 three of these kind of meetings, and I know in one of 11 those meetings I had taken some notes of some feedback 12 the executives gave at the meeting and I sent that out 13 to be included in the meeting notes. I don't recall if 14 it's this meeting or not. Q. Have you seen those notes in preparation for 15 your trial testimony? 16 17 Α. I don't recall. I saw many documents. And you saw many documents in preparation for 18 Ο. 19 today and yesterday? 20 Over the course between the depositions and Α. 21 today, yesterday, there's obviously boxes of documents 22 here and I've seen some of them. 23 0. Yes, there are.

Let me show you RX-855, some more

25 SyncLink Consortium meeting minutes, this time from the

1 January 14, 1997 meeting.

2 May I? 3 JUDGE McGUIRE: Go ahead. 4 BY MR. PERRY: 5 Q. Let me first establish that you were present for the meeting and then I'll ask you to take a look at 6 7 the minutes. Do you see that you're shown as attending the 8 9 January 14, 1997 morning and afternoon sessions as well 10 as the January 15 session? 11 Α. Yes, I do. 12 And you went to these meetings? Ο. 13 Α. Yes. 14 I'm going to ask you a few questions about the Ο. 15 first page if you want to take a minute and look at 16 it. 17 (Pause in the proceedings.) 18 Α. Okay. Now, there's a reference to you that's about 19 0. 20 five lines down. It says, "Terry Lee took notes on the 21 manufacturer comments at the Tokyo meeting, see scanned doc." 22 23 Do you see that? 24 Α. Yes. And then there's like a title of a PDF in 25 Ο.

1 regards to that.

2 Do you see that?

3 A. Yes.

Q. And then about three lines below that there's a
statement: "Siemens was eloquent. No future RB road
map."

Now, when you read that, you understood RB to8 be Rambus; is that right?

9 A. Yes.

10 Q. "No future Rambus road map. Letting one 11 company control industry is crazy."

12 Do you see that?

13 A. Yes.

14 Q. And then a little further on it says "Rambus 15 not acceptable."

16 Do you see that?

17 A. Yes.

Q. And were those statements based upon your notes taken in the meeting about what Siemens, now Infineon, was saying?

A. I don't know if those were taken from my notes
or that was comments that were made either repeated by
Siemens or by Farhad Tabrizi.

Q. Well, let me show you what I believe are your notes of that meeting, RX-852.

1

May I?

2 JUDGE McGUIRE: Yes.

3 BY MR. PERRY:

Q. Now, this document was produced to us by5 Mitsubishi.

Do you see that up at the top it says "From: tlee@micron.com, To: GCLOUD, Subject: Supplier comments"? Do you see that?

9 A. Yes.

Q. And then below that there's an e-mail that appears to be from you to Mr. Tabrizi dated January 13, 12 1997?

13 A. Yes.

Q. If you'll just please look at this and confirm that these are in fact your notes that you took at the January 10, 1997 meeting in Tokyo, or Yokohama, of the SyncLink executives.

18 (Pause in the proceedings.)

19 A. Okay. Yeah, these are mine.

20 Q. Now, you looked for these at Micron; right, and 21 you've been unable to find them?

A. I provided everything that I had on SyncLink
for the -- as part of the response to -- I don't know
what the legal term is -- but request for documents.
Q. Have you looked for these particular notes?

A. I've looked for everything. 1 2 Did you look for these particular notes? Q. A. Let me be clear. Everything I had in SyncLink 3 I turned over. 4 Q. I'm not doubting that. 5 б Α. Okay. Q. Did you look for these particular notes? 7 MR. OLIVER: Objection, Your Honor. Asked and 8 answered. 9

alreadyg that.

1 subdirectories and e-mail.

Let's look on page 2 of the exhibit. 2 Ο. And let's 3 go down to where it says "Siemens," just the second one 4 up from the bottom. 5 And are these your notes that you're taking of what a Siemens executive was saying at the January 10, 6 7 1997 SyncLink Consortium executive meeting in Japan? 8 Α. Yes, it is. 9 Ο. And what you wrote was: Control concerns are 10 realistic. No future Rambus II road map. Industry is 11 large dollars -- you have a dollar sign there. Does that mean dollars? 12 13 Α. I think so. 14 Industry is large dollars, but letting control Ο. 15 go to one small company. 16 Did you understand "one small company" to refer to Rambus? 17 I'm not sure. 18 Α. 19 Well, Intel certainly wasn't a small company at Ο. that point, was it, as you understood it? 20 21 Α. I would agree. 22 And look at the next to last sentence under Ο. 23 Siemens. It says, "Rambus is not acceptable." 24 Do you see that? 25 Is that something that the Siemens executive

said in front of this group of DRAM executives? 1 2 Α. I believe so if my notes were accurate. One 3 concern I have with just making that statement is it 4 seems when I sent that that I was asking that they be 5 reviewed for correctness prior to sending it out to the consortium, so... 6 And you knew that at the January 14 consortium 7 Ο. 8 meeting those notes were sent out; right? 9 Α. Yes. 10 You can't think of any other way how Mitsubishi Ο. 11 would have gotten ahold of them, can you? 12 I'm not sure I understand that question. Α. 13 0. Well, these came to us, this copy came to us 14 from Mitsubishi. 15 Did you ask Mitsubishi to review it in advance 16 of it being distributed to other people or did you ask Mr. Cloud? 17 I asked Mr. Tabrizi, Mr. Chen of Mitsubishi, 18 Α. and also Mr. Cloud. 19 20 Q. Okay. Do you know if Mr. Chen made any 21 suggested changes to your notes before they were 22 distributed out? I don't recall. I certainly sent it to these 23 Α. 24 people to get it. 25 Q. Now, look back at page 1 of the January 14

1 consortium meeting. That's RX-855.

2 And do you see about five lines up from the bottom -- 855 -- about five lines up from the bottom do 3 4 you see the reference to Siemens? 5 Α. Yes. "Siemens was eloquent. No future 6 Ο. It says: 7 Rambus road map." 8 Do you see that? 9 Α. Yes. 10 And does it look to you like the phrase "no Ο. 11 future Rambus road map" was taken from your notes? 12 It looks like the same content as in my notes. Α. 13 And do you see where it says below that Ο. 14 "Rambus not acceptable"? Does it look to you like that was taken from your notes of the January 10, 1997 15 16 meeting? Yeah, that looks like the same content as 17 Α. well. 18 Now, look on page 2 of the exhibit, please. 19 Ο. 20 Oh, I forgot to ask you. 21 Α. Can I clarify something? Is that acceptable? 22 Is it in response to whether or not these Ο. 23 statements came from your notes? 24 Α. Yes, it is. 25 Well, yeah, do you think that the phrase Ο. Okay.

1 "Rambus not acceptable" -- go ahead. What is it you
2 want to say about that phrase?

A. Well, my concern with your question is you asked whether this came from my notes and yet there's information in this statement that is not included in my notes, and so I don't know whether my notes are the source of that or it's an independent source of notes taken at the meeting.

9 Q. Okay. I was just asking about that phrase,10 "Rambus not acceptable."

11 A. Okay.

12 Q. Do you know one way or the other whether that13 came from your notes taken at that meeting?

A. I know I took notes to that statement. I don't
know if there were independent notes or whether they
came from my notes.

17 Q. Okay. Thank you.

18 Now, who from Siemens made that statement at19 that January 10 meeting that Rambus was not

20 acceptable?

A. The gentleman's name is -- I'm going to have to
say Andreas Z.

23 Q. Was it Dr. Andreas von Zitzewitz?

A. That's it.

25 Q. Z-I-T-E-W-I-T-Z?

1 A. Yes.

2 Ο. Now, let's look on page 2 of RX-855, the 3 January 14, 1997 SLDRAM Consortium meeting. 4 Is it your understanding that the 5 SyncLink Consortium had changed its name by this point to the SLDRAM Consortium? 6 There was a name change at some point. 7 Α. I don't recall the exact date that that occurred, but there was 8 9 a name change. 10 But the name change was from SyncLink to Ο. 11 SLDRAM; right? 12 Α. Correct. 13 Ο. Well, there's a reference to you on page 2 of 14 these minutes about two-thirds of the way down. Ιt says "Terry Lee." 15 16 Do you see that? 17 Yes. Α. Why don't you read that to yourself and I'll 18 Ο. have a question. 19 20 (Pause in the proceedings.) 21 Α. Okay. 22 Did you state in substance at the January 1997 Ο. meeting of the SLDRAM Consortium in Santa Clara, 23 24 California that the only way to prevent the sad past 25 history of being hurt by a single large customer from

happening again in the future is for the manufacturers 1 2 to have key patents for the next generation? T believe so. 3 Α. 4 Q. Look on page 6. 5 Now, I'm going to ask you about a statement that appears to be something that Farhad Tabrizi is at 6 7 least -- at least the minutes say he said. It's about ten lines down. 8 9 Do you see "FT: Want more of DBG time"? Do 10 you see that? 11 Α. Yes. 12 Ο. And Mr. Tabrizi at the time was with Hynix, or 13 Hyundai; right? 14 Α. Yes. 15 Did you understand DBG to refer to Ο. David Gustavson? 16 I did. 17 Α. And he was a professor type with Santa Clara, 18 Ο. he had been involved in the RamLink/SyncLink stuff? 19 20 Yeah. He could be characterized as that. Α. It says, "Want more of DBG time, 75 percent or 21 Ο. 100 percent, need his help to write patents and 22 articles, get minutes out fast, collect patentable 23 24 items from minutes, consider Rambus patent issues, need 25 to file patents daily."

1 Did Mr. Tabrizi say something in this 2 January 1997 meeting about needing somebody to consider 3 Rambus patent issues? Apparently by the notes. I don't recall it 4 Α. 5 specifically. Q. Do you know what particular Rambus patent 6 7 issues Mr. Tabrizi had in mind? Do you know one way or the other? 8 9 Α. I don't recall the specific comment at this 10 time. 11 Ο. Okay. If you'll look on page 3 of these 12 minutes of the January 14, 1997 SLDRAM Consortium 13 meeting. 14 And the fourth line down, do you see the fourth line down says, "FT says it seems clear their 15 16 decision was political, not technical"? Do you see 17 that? 18 Α. Yes. 19 Ο. You received copies of these minutes on a regular basis; right? 20 21 Α. I had access to them. I don't know if I always 22 received them. 23 Okay. Do you remember now Mr. Tabrizi saying 0. 24 in this meeting that Intel' decision was political and 25 not technical?

1 Do I remember that specific comment? Α. 2 Ο. Yeah. 3 No. Α. 4 Ο. Look a few lines down. 5 Do you remember him saying that losing control of the specification means losing control of our 6 7 destiny? 8 Α. I see that. 9 Ο. Do you remember him saying that at the meeting, Mr. Tabrizi? 10 11 Α. I don't remember that specific discussion. 12 Did somebody else say that in the meeting, that Ο. 13 losing control of the specification means losing 14 control of our destiny? 15 MR. OLIVER: Objection, Your Honor. He said he doesn't recall the discussion. 16 17 JUDGE McGUIRE: Sustained. BY MR. PERRY: 18 If you could look down to the statement 19 Okay. Ο. 20 that's just below that, referencing Mr. Rhoden, Desi. 21 Do you see that? 22 Α. Yes. It says, "Desi: VLSI was once world-leading 23 0. 24 chipset supplier, worked with Intel, cross-traded 25 engineers, Intel now in chipset business, VLSI out of

1 PC business now. This will happen again."

Do you remember Mr. Rhoden explaining at someSyncLink meeting that story?

A. I don't remember this specific discussion. I
understood that there was a concern of Intel trying to
control -- using their market power to try to control
the industry.

Q. And then the next line says -- of these
minutes says, "Depending on Intel for business is
worse than getting on drugs -- 'It's like someone is
sleeping with your wife and they want you to pay the

1 was made at the -- at a February '97 SyncLink 2 Consortium meeting with AMD. And I represent to you 3 this was produced to us by AMD. I believe you were 4 present, but that will be my first questions. It's 5 RX-876. 6 May I? 7 JUDGE McGUIRE: Yes. BY MR. PERRY: 8 9 Let me just establish what role AMD played with Ο. 10 respect to DRAM in this time period, 1997. What did 11 they make? 12 Α. They were a microprocessor developer. 13 Ο. Okay. Let me just show you the title of this. 14 It says "SLDRAM Presentation by SyncLink Consortium February 18, 1997." 15 16 Do you see that? 17 Α. Yes. And look on page 8. 18 Ο. 19 Do you see a reference to your name? 20 I do. Α. 21 Ο. Were you present for a presentation about 22 SyncLink in about February 1997 at AMD? I recall speaking with AMD before about 23 Α. 24 SyncLink. This presentation is kind of a standard set 25 of foils that we used and updated periodically for some

customer presentations, and I may not have been on all
 those presentations even though my name is on the
 foils.

4 So I'm not saying I wasn't there; I'm saying 5 I'm not sure if I was there at this time with this 6 presentation.

Q. Okay. Then what I'm going to limit it to is
whether or not the foils were prepared by you. And I
really just have a question about that.

And I'll represent to you that from this page, page 8, all the way to the back I could not find another person's name, and what I'd like you to do is try to tell me if you were the one who prepared the foils that go from page 8 back to page 35.

A. I prepared these foils with inputs from othersfrom the SLDRAM technical review.

Q. Okay. Well, let me focus just on oneparticular one foil at page 32.

And the top one is called Business Comparisons.I'll let you look at it.

21 Are you on page 32?

22 A. Yes.

23 Q. Good.

24 (Pause in the proceedings.)

25 A. Okay.

1 Q. Is this a slide that you prepared for use in 2 customer presentations? I'm not a hundred percent positive whether I 3 Α. 4 received input or I received this slide from somebody 5 and put it in here. I put together the whole package on the technical part I should explain. 6 7 MR. PERRY: Your Honor, this would be a good time for a lunch break if it's a good time for you. 8 9 JUDGE McGUIRE: That's fine for me. Let's take a break then. It's almost 12:30 now. Let's break 10 11 until 1:45. 12 Hearing in recess. 13 (Whereupon, at 12:27 p.m., a lunch recess was 14 taken.) 15 16 17 18 19 20 21 22 23 24 25

AFTERNOON SESSION 1 2 (1:45 p.m.) 3 JUDGE McGUIRE: This hearing is now in order. 4 At this time, Mr. Perry, you may proceed with 5 your cross-examination. Would you please take the stand, Mr. Lee. 6 7 MR. PERRY: Thank you, Your Honor. BY MR. PERRY: 8 9 Mr. Lee, I wanted to move to a somewhat 0. 10 different topic from the ones we were discussing this 11 morning. 12 The issue I want to talk about with you is 13 whether Micron personnel had notice that Rambus might 14 eventually have intellectual property claims with respect to technologies incorporated within SDRAM or 15 16 DDR SDRAM devices. That's just the general subject 17 matter of what I'm going to be talking about. 18 But let me get some background first. When did you attend your first JEDEC meeting? 19 20 I believe the first meeting I attended was -- I Α. think it was sometime in '94. 21 22 Ο. '94? 23 I believe that's right. Α. 24 And at the time you attended that first Ο. 25 meeting, were you aware that Micron was a JEDEC

1 member?

2 Α. Yes. 3 And at that time was Mr. Walther, 0. 4 Terry Walther, the official Micron JEDEC 5 representative? Α. He was. 6 7 And I think you testified, but let me ask you Ο. 8 just directly. 9 At some point in time did Mr. Walther begin 10 circulating a copy of JEDEC meeting minutes to you? 11 Α. Yeah. I received meeting minutes on a periodic 12 basis. 13 Ο. And did that happen from time to time in 1995 14 and '96? 15 I don't recall if I received meeting Α. Yeah. 16 minutes from every meeting, but from time to time, 17 yes. 18 Well, let me ask this. Ο. Did Mr. Walther tell you at any time prior to 19 20 the year 2000 that Rambus' JEDEC representative had 21 refused to answer any questions about Rambus' 22 intellectual property with respect to features contained in the SDRAM standard? 23 There was a discussion after Rambus 24 Α. 25 discontinued being a JEDEC member about -- in general

1 A. No. Not that I recall.

2	Q. Did Mr. Walther ever tell you that Rambus had
3	read a prepared statement at a JEDEC meeting that said
4	that, quote, our presence or silence at committee
5	meetings does not constitute an endorsement of any
6	proposal under the committee's consideration nor does
7	it make any statement regarding potential infringement
8	of Rambus intellectual property?
9	A. I don't recall that statement.
10	Q. Did you ever see that statement in an
11	attachment to a JEDEC minute?
12	A. The only statement I recall that relates to
13	that is there was some letter I think Richard Crisp
14	had sent to JEDEC upon their termination of
15	membership.
16	Q. Well, that's actually not the one I'm talking
17	about.
18	Let me show you the one I'm talking about and
19	see if it refreshes your recollection. I'll show you a
20	one-page document, RX-602.
21	May I?
22	JUDGE McGUIRE: You may.
23	BY MR. PERRY:
24	Q. Now, I'll represent to you that this was an
25	attachment to JEDEC meeting minutes from

1 September 1995, and since you were sent JEDEC meeting 2 minutes on a periodic basis, my question to you is, 3 simply, did you, prior to the year 2000, ever see this 4 September 11, 1995 statement by Rambus? 5 Α. I don't recall ever seeing this. I want to move forward in time to March 1997, 6 Ο. 7 and I'll ask you to look at JX-36, which is in the stack in front of you from March 1997. It's JEDEC 8 9 meeting minutes. 10 If you need another copy, I have one. 11 Do you have JX-36? I do. 12 Α. 13 And you talked about some references in these 0. 14 minutes yesterday; right? 15 Α. Yes. 16 You attended this meeting, I think your name 0. appears on the second page, "Others Present, 17 Terry Lee"? 18 I attended portions of it. 19 Α. Yes. 20 You attended portions of this meeting. Ο. 21 And if you'll look on page 7, please. 22 Let's pull up the reference in item 6.6. I believe you told us yesterday you were 23 24 present for a presentation by NEC relating to what's 25 called here DDR SDRAM for high-end systems.

Were you present for that presentation? 1 2 Α. Yes, I was. 3 Now, I think you gave the name of someone at 0. 4 NEC who was presenting this, but I didn't -- I couldn't 5 catch it. What was his name? There were two gentlemen from NEC I recall, and 6 Α. a gentleman by the name of Asakura was involved in that 7 8 presentation. 9 0. Yoshitomo Asakura? 10 Α. I believe that's his first name. 11 Ο. And you asked that gentleman to draw a diagram of what he was talking about; is that right? 12 13 Α. Correct. And when he drew it, you thought it looked 14 Ο. similar to the loop-back clock described in Rambus 15 16 '703 patent that you had earlier reviewed; right? That's correct. 17 Α. Now, did you yourself, Mr. Lee, raise the 18 Ο. patent issue at that point in the committee 19 20 deliberations or did you tell Mr. Walther about your 21 concern and he raised it? 22 Α. I believe I raised it myself that I had concerns that this looked like this Rambus patent. 23 24 Ο. Do you remember the words you used? 25 Today? Α.

Q. Yes. Do you remember today the words you used
 then?

3 A. I don't remember the exact words.

Q. Well, the minutes say on page 7: "A first showing was made by NEC. It included a read clock and a write clock. A discussion of the clock issue took place. Some on the committee felt that Rambus had a patent on that type of clock design."

9 The statement "Some on the committee felt that 10 Rambus had a patent on that type of clock design," is 11 that a fair representation of what you said at the 12 meeting?

13 A. It may be a summary of what I said.

14 Q. Is it a summary of what you said?

A. Well, it sounds like it's a summary of a fewpeople's comment.

Q. Well, that was my next question, but is it afair summary of what you said at the meeting?

A. I identified a concern that I thought that
Rambus may have a patent on that or it looked like a
Rambus patent, something to that effect.

Q. Now, who else besides you said that they alsofelt that way?

A. There were many people who spoke up in thecommittee about this whole discussion. This discussion

probably lasted two or three minutes. 1 There were quite 2 a few people who stood up to either comment on whether 3 this should be included or considered in the standard 4 or not. And also there was some comments about the 5 Rambus license fee. I wasn't clear enough with my question. 6 Ο. After you said that you had this concern that 7 it looked like something you'd seen in a Rambus 8 9 patent, who else besides you said that they thought it 10 looked like something that Rambus might have a patent 11 on? I don't remember exactly which individuals said 12 Α. 13 what. 14 Well, the reference in the minutes is that some Ο. on the committee felt that Rambus had a patent on that 15 16 type of clock design. 17 Other than you, do you remember who that was? I thought I just answered that. I don't recall 18 Α. who else made those exact statements. 19 20 Ο. Thank you. 21 Now, when you raised the issue in the JEDEC 22 meeting, did you understand that you were obligated under the JEDEC patent policy to bring to the 23 24 committee's attention intellectual property rights of 25 other companies that you were aware of that might For The Record, Inc.

Waldorf, Maryland (301) 870-8025 1 relate to a proposal under discussion?

2 Α. Yeah. It was my understanding that I needed to 3 identify IP that may relate to the work of the 4 committee. 5 Now, the minutes continue, "Others felt that Ο. the concept predated Rambus by decades." 6 Who, if you can recall, expressed an opinion 7 that the concept you had addressed predated Rambus by 8 9 decades? I don't recall who said that. 10 Α. 11 Ο. Do you remember somebody saying that? 12 I remember discussions about that. Α. Yeah. Like I said, though, the discussions probably took two or 13 14 three minutes and included these topics. Q. Did someone say in substance that the use of a 15 16 loop-back bus in a memory device had been used for decades? 17 A loop-back bus? 18 Α. 19 Ο. Yeah. 20 I don't recall that being said. Α. 21 Ο. Well, let's look at the presentation if we Let's look at appendix F that starts at 22 could. 23 page 56, and you showed it to us yesterday. 24 This is the one where it's on pages 56, 57 and 25 59 because of the copying problem. Do you remember

1 that?

2	But let me put that aside for a second.
3	When you were talking yesterday about your
4	understanding at the time of the Rambus architecture, I
5	think you told us that you understood it to involve a
6	narrow bus and to be multiplexed, that is, the command
7	address and data shared the same signal lines. Is that
8	what you said?
9	A. That's correct.
10	Q. Now, in this NEC proposal, command address and
11	data don't share the same signal lines, do they? You
12	can see that on page 57. Right?
13	A. Yeah, in this proposal command address appears
14	to be separate from data.
15	Q. And you would not describe the NEC
16	presentation as involving a packetized protocol, would
17	you?
18	A. No.
19	Q. And you would not have described the NEC
20	presentation as involving a narrow bus, would you?
21	A. No.
22	Q. So by March '97 at least you believed that
23	Rambus might have intellectual property claims that
24	extended beyond the narrow bus, multiplexed, packetized
25	RDRAM architecture; right?

A. No. My concerns were strictly about a clocking
 scheme.

Q. So you believed by March 1997 that Rambus might have intellectual property claims to clocking schemes that were not tied to the use of a narrow bus in a multiplexed, packetized RDRAM architecture; right?

8 A. I had concerns that they had patents to a 9 clocking scheme that may relate to the work of the 10 committee.

11 Q. You had a concern, didn't you, by March 1997 12 that Rambus might have intellectual property claims 13 with respect to a device that was neither packetized 14 nor had a narrow bus; right?

A. I had concerns about it relating to this clocking scheme. You know, whether that patent applies specifically or not I really wouldn't be qualified to determine. I expressed a concern because it may relate to the work of the committee.

20 Q. Did anyone -- well, strike that.

Now, let's look back at page 7 of the
minutes -- Your Honor, there's some noise from counsel

JUDGE McGUIRE: Oh, I'm sorry. But I couldn't hear it from up here. Is it conversation? MR. PERRY: No. It's coughing, Your Honor. And I'm sorry, I don't mean to be rude, but it has just been since lunch and I'm worried that it's affecting the transcript. JUDGE McGUIRE: Well, let's be sure that ranscript. 1 this specific proposal on the clocking scheme.

2 Q. Right.

And you told us yesterday that members of the committee strongly objected to the NEC proposal after you raised this concern; correct?

6 A. That is correct.

Q. Was it your understanding at the time from being in the meeting that those strong objections were a direct response to your disclosure that Rambus might have intellectual property rights relating to this

11 proposal?

12 A. Yes. Mine and others.

13 Q. Right.

Let's move forward one month to April 1997.
But before we do, I have one more March '97 -- sorry -short e-mail to show you, and it's Exhibit 890.

17 JUDGE McGUIRE: Is that RX-890?

18 MR. PERRY: RX-890.

19 JUDGE McGUIRE: All right. Approach.

20 BY MR. PERRY:

21 Q. Now, this page was produced to us by

22 Ms. Betty Prince.

23 You're familiar with Ms. Prince, aren't you?24 A. Yes.

25 Q. She's a longtime JEDEC representative?

1 A. I believe she is.

2 And in the middle of the page there is an Ο. 3 e-mail that appears to be from you. Let's see if we 4 can pull that up. 5 And that says it's from Terry Lee to supply@hea.com, subject Rambus starts public filing, 6 7 dated March 17, 1997. Do you see that? 8 Α. Yes. 9 Ο. And is that an e-mail that you sent to the 10 supply reflector that had been described in some of 11 those SyncLink minutes we saw? 12 Α. It is. 13 And you were telling the folks who were going 0. 14 to receive that e-mail from the SyncLink reflector that Rambus was filing some documents with the SEC in 15 16 preparation for going public? 17 Α. Yes. And is it your -- does it appear to you that 18 Ο. that was forwarded on to Ken McGhee at some point, the 19 20 JEDEC secretary? 21 MR. OLIVER: Objection, Your Honor. Lack of 22 foundation. 23 JUDGE McGUIRE: Sustained. BY MR. PERRY: 24 25 Did you at some point get this e-mail back from Ο.

Ken McGhee because he had sent it out to a large group
 of JEDEC members?

3 A. I don't recall.

Q. Okay. Why were you sending this information
about Rambus to your competitors that make up that
supply reflector?

A. Well, the members of SLDRAM include both8 suppliers and customers.

9 Q. Okay.

10 A. And I sent this information out that they were 11 going public because there was some -- I think there 12 was some news at that time that they were planning on 13 going public, so it was generally accepted rumor, if 14 you will.

Q. Now, was it your understanding that when you sent an e-mail to supply@hea.com that that e-mail then was sent to more than just DRAM manufacturers?

18A. I'm unsure as to the exact distribution list.Mr. Olivedke upe gvtio thxtra geA. I'm unsure a252 TD(

It's a small document; it might be hard to find. 1 one. 2 MR. PERRY: May I approach? 3 JUDGE MCGUIRE: Yes. BY MR. PERRY: 4 5 Now, this is the e-mail exchange that we talked Ο. about yesterday or that you talked about yesterday 6 7 involving you and Mr. Walther and Mr. Weinstock and copies of some of the e-mails went to Mr. Mailloux, 8 9 Mr. Biggs and Mr. Welch. This is an e-mail that talks about some 10 11 conversations with James Akiyama at Intel, and I 12 wanted to start by finding out who some of these cc's 13 were. 14 There's a reference to Jon Biggs. What was his position at the time? 15 I believe -- well, first of all, Jon was in 16 Α. 17 sales and I believe he was the prior Intel account representative. There was some transition going on at 18 that time between him and Keith Weinstock. 19 20 And who was Gary Welch? Ο. 21 Gary Welch was in product marketing. I believe Α. 22 the relevance was that he -- Rambus product came under him. 23 24 And you told us about Keith Weinstock Ο. 25 yesterday. I believe you said he was then the current For The Record, Inc.

Waldorf, Maryland (301) 870-8025 1 Intel representative for Micron; right?

2 I believe that's correct. Α. And he reported to you and a group of others 3 Ο. 4 that Mr. Akiyama had said that Rambus feels DDR for any 5 memory is under their patent coverage; right? Α. Yes. 6 7 And when you read this, you understood that DDR Ο. referred to the use of dual-edged clocking; right? 8 9 Α. Well, I assumed -- I'm not sure if I understood that. I understood that DDR as referring to DDR SDRAM, 10 11 but I'm not sure. Maybe I don't understand the 12 question. 13 Q. Well, that's fine. I was just asking your 14 understanding. That's fine. 15 Okay. Α. 16 And when it says "any memory," you understand Ο. that to include any DRAM device; right? 17 18 Well, yeah. Explicitly what it says is "any Α. memory," so it could be beyond DRAM, but I'm not sure 19 20 what his intent was. 21 Q. Well, you at least understood that this was a

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- 1 was no longer a JEDEC member; right?
- 2 A. Yes.
- 3 Q. And you knew that Richard Crisp had stopped

probably interact with him a few times or so for that. 1 2 Did you think when you read this that he was Ο. 3 trying to mislead Micron when providing this 4 information? 5 No. I felt that he was being misled. Α. I understand that part. 6 0. 7 But did you think that he was knowingly misleading you when he provided that information? 8 9 Α. No, I don't think so. 10 In fact, you knew him to be a supporter of DDR Ο. 11 at this point; right? 12 I knew that for the graphics application which Α. 13 he was involved with they preferred DDR at this time. 14 Ο. So your understanding at the time was that Mr. Akiyama thought he was giving Micron a warning; 15 16 isn't that what you thought? I'm just asking for your belief at the time. 17 No. Not necessarily. 18 Α. Well, you didn't think Mr. Akiyama was 19 Ο. Okay. lying to you? 20 21 Α. He wasn't speaking to me. 22 Okay. Did you believe that Mr. Akiyama was out Ο. to fool Micron in providing this information to 23 Mr. Weinstock? 24 25 No. Not knowingly. Α.

Okay. And that line that I just read you from 1 0. 2 the e-mail says something about whether the courts 3 take, quote, a broad or a narrow view of the patents. 4 Do you see that? 5 Α. Yes. You understood that to refer to possible future 6 0. 7 litigation; right? I don't see anything here about litigation. 8 Α. 9 Ο. When it talks about the courts, did you 10 understand that at the time to be something involving 11 lawsuits? 12 Potentially either that or Patent and Trademark Α. 13 Office. 14 0. Okay. Well, let's look at the original e-mail 15 from Mr. Weinstock. 16 Do you see down at the bottom of the first page of Exhibit RX-920 there's an e-mail that begins "From: 17 Keith Weinstock"? It's dated April 16, 1997. Do you 18 see that? 19 20 Α. Yes. 21 Ο. And if you look on the next page, and you find 22 about halfway down or a third of the way down you'll see a line that says, "Rambus plans legal action to 23 24 request royalties on all DDR memory efforts." 25 Do you see that?

1 A. Yes, I do.

2 Q. And you understood "legal action" to be a3 reference to patent infringement suits?

A. I believe it could, yes.

5 Q. Now, you told us yesterday -- you can put that 6 down for a second. Let me make sure you're following 7 me.

10 8 You told us yesterday that ecide?' nceme.
1 1're fo up with3 spec ncethe3 referstenethisme.
2e-mailegboan Rambus' possibllientellec u"leproperty;eme.
3 ightuits?

1 4 Tay 'se irrec me.

15 2 Q. I had soLetquus acsegboan day me.

16 8 Fiund fobroad one: Di And speak nceme.

1 7Mr. Akiyama y tanerdimlien 1997 af ye And receivethiseme.

18 2e-mailegboan the3issue of possiblliRambuse to patme.

1TjmsEclaims?me.

20 4 No Yes, T7' I do.

2 Okay Qs fan fs And kn. N,TMr. Walther6 tme.
2 2anethilownce're fo up ontanerof the3inownma actme.

2 3provideenethis2e-mail, RX-920?me.

24 4 No Non put tI kn. me.

1 to follow up on this information?

2 A. No.

Q. As far as you know, did Mr. Mailloux do
anything to follow up on this information?
A. No.

Who did Mr. Biggs report to at the time? 1 0. 2 Α. I'm not sure. 3 Okay. Now, you explained yesterday your 0. 4 reasons why you did not follow up with anyone when you 5 got this e-mail, and I want to get into that, but first let me ask a few more broader questions. 6 7 Did you tell any JEDEC representative from any other company about any of the information contained in 8 9 Exhibit RX-920? 10 Α. No. Not that I recall. 11 Q. Did you pass on any of the information contained in Exhibit RX-920 to any of Micron's in-house 12 13 lawyers? 14 No, not that I recall. I didn't believe it. Α. And I will explore the reasons why you didn't. 15 Ο. 16 Sure. Α. But first I want to look at some entries from 17 Q. the Micron privilege log. 18 We've previously marked as Exhibit RX-1920 the 19 20 very substantial privilege log that we were provided by 21 Micron in a lawsuit in Delaware. And I've got certain pages from that privilege log that I want you to look 22 23 at. 24 But let me say, I do not want you to give me 25 any testimony about what was said with lawyers. Okay?

1 That's not what I'm asking.

2 A. Okay.

Now, if we could pull up RX-1920, just the 3 0. 4 first page. 5 Do you see that says "Supplement to Plaintiff's Privilege Log"? Do you see that? 6 7 Α. Yes. I'm going to show you now what's RX-1920 at 8 Ο. 9 page 415. 10 May I? 11 JUDGE McGUIRE: Yes.

12 BY MR. PERRY:

Q. Now, I want to point your attention to the very last e-mail -- not e-mail -- entry, the very last entry on this page, which says "e-mail including e-mail

16 chain," March 25, 1997, from Mr. Mailloux to

17 Mr. Westergard.

18 Now, you understood Mr. Westergard to be patent 19 counsel?

20 MR. OLIVER: Objection, Your Honor. There's no 21 foundation that this witness has ever seen this 22 document.

23 JUDGE McGUIRE: Sustained.

24 MR. PERRY: Your Honor, I was just asking --

25 JUDGE McGUIRE: Try to lay a foundation if you dn this

1 can, Mr. Perry.

2 I'm quite sure he didn't prepare MR. PERRY: 3 the privilege log, Your Honor, but he's going to be 4 able to tell the names of people. They're Micron 5 people. JUDGE McGUIRE: I'll entertain that question. 6 BY MR. PERRY: 7 Did you understand in the spring of 1997 that 8 Ο. 9 there was a Mr. Westergard who was a patent lawyer at 10 Micron? 11 Α. I understood Dave Westergard is an attorney at 12 Micron. I'm not sure what the bounds of his 13 responsibilities are. 14 In March of 1997, did you -- putting aside Ο. conversations with lawyers, in March of 1997, did you 15 have any conversations with Mr. Mailloux on the subject 16 of SGRAM DDR and Rambus? 17 The technical details on this e-mail? 18 Α. The 19 prior e-mail? I'm sorry. Maybe I'm not --20 I'm not talking about Exhibit RX-920, which is Ο. 21 dated April 1997. I'm asking you -- I'm putting the 22 document aside. I'm asking you now if you had any 23 conversations with Mr. Mailloux in March of 1997 24 25 outside the presence of counsel about whether or not

2 SGRAM DDR. 3 Α. Not that I recall. 4 MR. OLIVER: Excuse me, Your Honor. If the 5 question is unrelated to the document, I request the document be taken off the screen. 6 7 MR. PERRY: I didn't notice it was still up, 8 Your Honor. 9 JUDGE McGUIRE: All right. Let's take it off 10 the screen. 11 All right. Can you answer that question, Mr. Lee? 12 13 THE WITNESS: Sure. It was not that I recall. 14 BY MR. PERRY:

Rambus had intellectual property claims with respect to

Q. Well, let me show you what is Exhibit RX-1920at page 421.

17 May I?

1

18 JUDGE McGUIRE: Go ahead.

MR. OLIVER: Your Honor, before we proceed any further, there's no evidence that this witness has seen any of these entries. If he wishes to ask who a person is, I think he should take the document --

JUDGE McGUIRE: We went through this the other day with their side. I'm going to ask you to do the same.

1

MR. PERRY: Your Honor --

JUDGE McGUIRE: It would save a lot of time if you could lay the foundation early so he doesn't have to jump up.

5 MR. PERRY: I hadn't even had a chance to ask 6 him a question. This is a privilege log. It's not a 7 document. It's just a privilege log that was created 8 in litigation.

9 This is a reference, the only reference we have 10 because the document has been withheld, of a 11 communication that he was involved in in this time 12 period. He's testified he did not tell in-house 13 counsel about his conversation -- or about the e-mail, 14 rather, with Mr. Akiyama. This is dated that same day, 15 and if you'll look at what it's about, Your Honor, I'm entitled to see if this refreshes his recollection that 16 17 he --

18 JUDGE McGUIRE: On that basis, I'll hear the 19 question.

20 BY MR. PERRY:

Q. Will you look at item 1036 on this privilegelog.

23Do you see it's dated April 17, 1997?24A. Yes.

25 Q. Do you see it's described as an e-mail

1 including an e-mail chain?

2 A. Yes.

Q. Do you see that you're the first listed author,4 the only listed author?

5 A. Yes.

6 Q. Do you see that the recipient is listed as

7 Mr. Westergard?

8 A. I do.

9 Q. And it says "confidential communication10 regarding meeting summary and DDR."

11 Do you see that?

12 A. Yes.

Q. Does that refresh your recollection that you communicated with Mr. Westergard something about some of the information contained in RX-920?

16 A. No, it doesn't. It sounds like it's a meeting17 summary.

Q. Okay. Now, did any of the other recipients of RX-920, the April 17, 1997 e-mail, come to you to talk about whether they should follow up?

A. Not that I recall.

Q. And in deciding whether or not you should follow up on the information contained in that e-mail, did you talk to anyone else?

25 A. I talked with Kevin Ryan about following up on

the simulation issue, the technical issue. 1 2 Ο. Did you talk to anyone about following up on 3 the information regarding Rambus' potential 4 intellectual property claim? 5 Α. No. Not that I recall. So you did the analysis of the question of 6 Ο. 7 whether or not to follow up all on your own; right? On that issue? 8 Α. 9 Ο. Yes. 10 Α. That's correct. 11 Q. All right. Well, I want to talk about the 12 factors you identified yesterday that you considered in 13 deciding whether or not to follow up on the e-mail. 14 Why don't we get it back up so that it's in 15 front of me at least. That's RX-920. 16 Now, the first issue you mentioned yesterday 17 was that it was hearsay. Do you remember that? 18 Α. Yes. 19 MR. PERRY: Your Honor, may I approach the 20 paper? 21 JUDGE McGUIRE: Yes. 22 BY MR. PERRY: And you thought it was unreliable as a result; 23 0. 24 right? 25 Α. Yes. I think it was created by other

1 motivations.

2	Q. Now, at the time that you were considering
3	whether or not to follow up on the information in the
4	e-mail, you understood that you could solve the hearsay
5	problem by calling up Rambus directly; right?
б	A. I didn't consider that option.
7	Q. So you did not at all think of resolving the
8	hearsay problem by contacting Rambus directly, it
9	didn't come to your mind; is that correct?
10	A. No. This was just consistent of the kind of
11	things that they were doing at the time.
12	Q. Well, I had double negatives in my question.
13	I'm going to have to ask it of you again.
14	A. Okay.
15	Q. Did you, when you were thinking about the
16	hearsay issue in deciding whether you were going to
17	follow up with the on the information regarding
18	Rambus' possible intellectual property claims, did you
19	consider calling up Rambus?
20	A. I think the answer holds. I did not. I
21	Q. Okay. Did you consider having JEDEC write
22	Rambus a letter asking for reasonable and
23	nondiscriminatory assurances of licensing?
24	A. No. I didn't believe that they had. I didn't
25	believe this was true. There was nothing to act on.

1 Q. I understand.

2 A. Okay.

Q. I'm trying to ask you some specific questionsabout what you considered.

5 Now, the second issue you said was that there 6 was a lot of misinformation going around that you 7 thought was somebody trying to pump up the stock price 8 of Rambus before the IPO happened; is that right?

9 A. The valuation of Rambus.

10 Q. The valuation, before the IPO?

11 A. That was part of the -- that's part of what I12 stated.

Q. Now, did you see in the press any reference to Rambus possible intellectual property claims with respect to DDR SDRAM in this time period, before the IPO?

17 A. I don't recall any press about that particular18 issue.

19 Q. How did you think it would have pumped up the 20 valuation of the company for Rambus just to tell Intel? 21 What was your thought process?

A. The thought process was that they were trying to get Intel locked into designing Rambus in on everything, direct RDRAM, and to try to tell them they had no other alternative, that they've eliminated all

1 of their competition to their patents.

2	In specific, this was about graphics memory,
3	and Intel at that time had a preference for the
4	DDR SGRAM, so it was consistent with their prior
5	behavior that they might tell Intel, Oh, we have
6	patents on that, so you can't use DDR there either.
7	Q. So you think you thought at the time that
8	Rambus had lied to Intel about its potential
9	intellectual property claims on DDR in a memory
10	device?
11	A. I certainly believe that from the results of
12	this e-mail that they must have misled them.
13	Q. Well, let me add number two. How should I
14	describe that? Misinformation? What was your thought
15	process?
16	A. Misinformation, propaganda, whatever you want
17	to call it.
18	MR. PERRY: Okay. May I, Your Honor?
19	JUDGE McGUIRE: Please.
20	BY MR. PERRY:
21	Q. Now, if you thought the information wasn't
22	true, did you consider following up to see whether or
23	not it turned out to be true?
24	A. No. I didn't see a reason to chase the rumor.
25	Q. Well, your third reason I think you talked

about yesterday is that Rambus and Micron had just 1 2 concluded license negotiations; right? 3 Α. Correct. 4 Q. Well, let me show you something in that time 5 frame about the license between Rambus and Micron. This is an e-mail that you're copied on from 6 7 Mr. Mailloux dated April 21, 1997, RX-921. 8 May I? 9 JUDGE McGUIRE: Yes. 10 BY MR. PERRY: 11 Ο. And is this an e-mail from Mr. Mailloux in 12 April 1997 attaching an e-mail that had embedded within it an article about Mitsubishi and Micron licensing the 13 14 Rambus DRAM? 15 Α. Can I take a minute to read that, counsel? Yes. Sure. 16 Ο. 17 (Pause in the proceedings.) May I approach the board? 18 JUDGE McGUIRE: Yes. 19 20 While you're up there, Mr. Perry, let's go 21 ahead and have that marked as DX-119. 22 (DX Exhibit Number 119 was marked for identification.) 23 BY MR. PERRY: 24 25 Does that refresh your recollection or affirm Ο. For The Record, Inc. Waldorf, Maryland

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2 in April 1997? 3 Α. Sure. 4 Now, did you ever see the Rambus-Micron license Q. 5 agreement? 6 Α. Yes. 7 Did you see all of it? 0. 8 Α. Yes. 9 Ο. Well, let me ask you if you noticed in it a restriction on Micron's use of the Rambus intellectual 10 11 property. Did you notice any restrictions in the license 12 agreement on Micron's use of the Rambus intellectual 13 14 property? 15 Yes, I did. Α. 16 And you saw that Micron was only entitled to Ο. 17 use Rambus intellectual property to manufacture the RDRAM; correct? 18 Direct RDRAM. 19 Α. 20 Direct RDRAM; correct? 0. 21 Α. Yes. 22 And did you understand from the reports you Ο. were getting about licensing negotiations that Rambus 23 had insisted that Micron's license to use Rambus' 24 proprietary technology be limited to the manufacture of 25 For The Record, Inc. Waldorf, Maryland (301) 870-8025

your recollection that Micron signed the Rambus license

1

1 RDRAM, direct RDRAM?

2 A. Yes.

Q. Now, I've written on the board "Rambus/Micron license." Is that a fair summary or at least a heading for the third item that you were talking about?
A. Yes.

Q. All right. The fourth item that I recall you
talking about is that Rambus had been a JEDEC member;
right?

11 A. That's correct.

1 not going to argue with you.

2 But my question is: You understood in 3 April 1997 that the use of dual-edged clocking had not 4 been balloted for approval at JEDEC while Rambus was a 5 member; right? I agree that it had not been balloted for 6 Α. approval, but I also agree that was involved in the 7 work of the committee at the time that Rambus was a 8 9 JEDEC member. 10 Now, you had heard with your own ears when you 0. 11 were attending JEDEC meetings, you had heard 12 Gordon Kelley, the chairman of the 42.3 committee, say 13 at JEDEC meetings where you were present that a 14 representative was required to disclose knowledge of intellectual property at the time of balloting but was 15 16 encouraged to disclose earlier? You heard him say that; right? 17 I don't believe I heard those exact words, no. 18 Α. 19 Did you hear him say in substance that Ο. 20 disclosure of a representative's knowledge of 21 intellectual property relating to the ballot -- to the 22 material being balloted was required at the time of 23 balloting but encouraged earlier? 24 Α. I don't recall his exact words. What I do

25 recall is that various members of the JEDEC committee

and usually at the start of the meeting would reiterate 1 2 certain aspects of the JEDEC patent policy. 3 Q. Let me ask you if you ever heard Gordon Kelley 4 say in substance that the required time of disclosure 5 of intellectual property known to the representative was at the time of balloting. 6 No. I don't recall that statement. 7 Α. Was it your understanding in April 1997 that 8 Ο. 9 the required time of disclosure for intellectual 10 property known to the representative was time of 11 balloting, but it was encouraged earlier? 12 Α. No. 13 Okay. Well, you were present at a January 1996 Ο. 14 JEDEC meeting and you looked at this yesterday, JX-29. 15 Please pull that out if you can. January 31, 1996, 16 JX-29. 17 Do you have JX-29? I do. 18 Α. 19 Do you see on the page 2 that you're listed as Ο. 20 being present? 21 Α. Yes. 22 And at this meeting, at this JEDEC meeting in Ο. 23 January 1996, you made a presentation about echo clocks; correct? 24 It starts on page 17 of this exhibit. 25 I think

you talked about this presentation yesterday. 1 2 Α. No. This was Kevin Ryan's. 3 So you were present when Mr. Ryan was 0. 4 presenting this discussion of echo clocks? 5 Α. Yes, I believe so. And did you know at the time that Gene Cloud 6 Ο. 7 had patents or patent applications covering the use of echo clocks in memory devices? 8 9 Α. No. 10 When did you first learn that Gene Cloud had Ο. 11 patents or patent applications covering the use of echo 12 clocks in memory devices, if ever? 13 MR. OLIVER: Objection, Your Honor. Assumes 14 facts not in evidence. 15 MR. PERRY: That's why I said "if ever" when he 16 stood up. 17 JUDGE McGUIRE: Go ahead and answer if you 18 can. THE WITNESS: I never did learn that. I also 19 20 know that we haven't enforced any patents against the 21 standard relating to that. 22 BY MR. PERRY: 23 Is there a standard that incorporates echo Ο. 24 clocks? 25 Α. No.

1 Q. At JEDEC?

2 A. No.

Q. Okay. Now, in September '97, you were not present for a JEDEC meeting, but you talked about the minutes yesterday. 1 don't know if it occurred earlier.

Okay. And if you see a few lines down, it 2 Ο. 3 says: "Motion by Samsung to send to council, seconded 4 by IBM. The vote was unanimous." 5 Do you see that? 6 Α. Yes. When you saw in these minutes -- well, strike 7 0. 8 that. 9 Did you see in these minutes that there were 10 two patents covering this proposal that had been 11 successfully voted on and sent to council? I reviewed these minutes. I don't know if I 12 Α. 13 can say I specifically saw that. I only can remember 14 at this time. 15 Q. As you understood it, was it JEDEC's goal to 16 avoid patents entirely or was it JEDEC's goal to avoid 17 patents that were held by nonmanufacturer companies? 18 It was my understanding that it was JEDEC 's Α. goal to avoid the use of patents when possible in 19 20 creating a standard. However, when they were 21 identified, the company also had a -- the JEDEC member 22 also had a responsibility to agree on reasonable, nondiscriminatory license fees. 23 24 Ο. And it was your experience that when a 25 representative was in the room and said, My company

1 will agree to reasonable and nondiscriminatory terms,
2 then the proposal went forward without further delay,
3 that was your experience; right?

A. Not necessarily. It depends. Some patents in some cases they found were important enough to go forward on an understanding that there would be an RND term, if you will, and in other cases the patents were not so critical and they designed around, they used something else, they changed the standard.

10 Q. Okay. Now, before I forget my chart over here, 11 I wanted to give it a title. Can we call it "Four Lee 12 Factors"?

13 A. That's okay with me.

14 Q. Does that work for you?

15 A. Yeah. Sure.

16 MR. PERRY: May I?

Now, Your Honor, I'm going to proceed now into some material that may or may not be covered by the in camera order, but because we had a small glitch in giving notice to Micron, we've agreed to consider this stuff as in camera and I'm now going to show it to the witness.

JUDGE McGUIRE: Okay. Then again to the audience, let me advise you that due to a court order in this proceeding, the testimony we are about to hear

is confidential and therefore will be closed to the 1 public, so at this time all of you in the audience 2 3 that haven't been cleared to hear this testimony, I 4 have to ask you to please vacate at this time the 5 courtroom. MR. PERRY: And may I say that this portion 6 7 will be quite short? I expect ten minutes. 8 JUDGE McGUIRE: Yes. 9 To the audience, this should be done in about 10 ten minutes and we'll open the doors again. 11 Counsel, I will ask you to again certify that 12 everyone at counsel table and behind you is authorized 13 to have access to this testimony. 14 MR. OLIVER: To the extent this information is 15 Micron information, yes. 16 MR. PERRY: It is all material produced to us 17 by Micron. 18 And I can represent for this side, the Rambus 19 folks, that it's all people who are authorized to 20 hear. 21 JUDGE McGUIRE: We're now then in in camera 22 session. (The in camera testimony continued in 23 24 Volume 34, Part 2, Pages 7059 through 7066, then 25 resumed as follows.)

1 JUDGE McGUIRE: We are now back in the public 2 session. 3 Mr. Perry? 4 MR. PERRY: Thank you, Your Honor. 5 BY MR. PERRY: I want to continue for just a few moments on б Ο. 7 the general subject matter of what I described before as the question of whether or not Micron personnel 8 9 were aware of the possibility of intellectual property being held by Rambus which might relate to the work of 10 11 JEDEC. 12 And let me just ask you to take a look at 13 Exhibit RX-1214. 14 May I?

1 The subject is Rambus patent. Do you see 0. 2 that? 3 Α. Yes. 4 Q. And if you'll pull up the text, please. 5 It says: "Dear all, I have a list of Rambus patents," and then there's a list of 29 patent numbers 6 7 that Mr. Oh says are Rambus patents. Do you see that? 8 9 Α. Yes. 10 Did you do anything with any of the information Ο. 11 in this e-mail? 12 Α. No. 13 Did you request that anyone else do any 0. 14 analysis, investigation or inquiry regarding any of the 15 Rambus patents listed here? No. Not that I recall. 16 Α. 17 Did you forward this to any lawyer at Micron? Q. I don't recall. 18 Α. Did you provide this to any of Micron's JEDEC 19 Ο. 20 representatives? I don't recall that I did anything with this 21 Α. 22 document. Well, let me show you RX-1095. 23 0. 24 May I? 25 JUDGE McGUIRE: Yes.

1

BY MR. PERRY:

2 Now, does this e-mail reflect -- I'm sorry. Ο. This was -- I was told this was not in camera. 3 4 Apparently it is. 5 JUDGE McGUIRE: Now, which one are you talking about? 6 7 MR. PERRY: The one that -- RX-1095. That's 8 what Mr. Stone just brought to my attention. I'll pass 9 on for now. 10 JUDGE McGUIRE: All right. Pass on for now. 11 Do you anticipate there's going to be any other 12 in camera testimony? 13 MR. PERRY: There is one more session, 14 Your Honor. 15 JUDGE McGUIRE: Okay. Good. BY MR. PERRY: 16 17 Q. Mr. Lee, if you could just for -- to save that 18 for later so we don't have trouble looking for it, could you put it up on top of that deposition 19 20 transcript. That will make things easier later. 21 JUDGE McGUIRE: Face down. 22/ookieGfusater. 5 BY MR. PERRY: 23

5 25out?

1 documents is not nearly as long as it looks. 2 And I want to start with something that's been 3 designated as RX-916, and it's dated April 17, 1997, the same day as that e-mail we spent so much time 4 5 discussing, RX-920, that has that information from Mr. Akiyama. 6 7 May I? JUDGE McGUIRE: Yes. 8 9 (Pause in the proceedings.) BY MR. PERRY: 10 11 Q. You've had a chance to review the entire 12 e-mail; right? 13 Α. Yes. 14 Is this an e-mail that you prepared and sent to Ο. Yoshihiro Takemae, T-A-K-E-M-A-E, at Fujitsu in 15 April 1997? 16 17 Α. Yes. 18 And you had met Mr. Takemae at that Ο. 19 January 1997 SyncLink executive meeting that you had 20 attended and made a presentation at; right? 21 Α. I'm not sure if that's when I first met him, 22 but I believe he was at that meeting. 23 Q. You sent a copy of this e-mail to Mr. Cloud and 24 Mr. Mailloux; correct? 25 Yes. Α.

1 Was Mr. Mailloux your boss at the time? 0. 2 Α. Yes. 3 And Mr. Cloud was Mr. Mailloux's supervisor at 0. 4 the time; right? 5 Α. Yes. And the subject matter is SLDRAM and DDR. 6 Ο. Do 7 you see that? 8 Α. Yes. 9 Ο. I want to talk to you about the first 10 paragraph. 11 You say to this gentleman at Fujitsu -- and by 12 the way, you understood him to be the general manager 13 of the DRAM department at Fujitsu? 14 He was a manager there and he was involved in Α. 15 I'm not sure what his exact title was. DRAMs. 16 You saw him at executive meetings of the 0. 17 SyncLink Consortium; right? I believe at this time I'd seen him at least at 18 Α. a meeting, an executive meeting. 19 20 Q. You understood him to be an executive in charge 21 of DRAM-related functions at Fujitsu; right? 22 Α. That's correct. 23 And you say, "I would appreciate an opportunity Ο. 24 to discuss a few issues regarding SLDRAM and DDR with 25 you"; right?

1 A. Yes.

2 Q. And SLDRAM is the new name for the SyncLink3 device; right?

4 A. Correct.

Q. "First," you say, "there had been have been
many concerns from the DRAM suppliers regarding the
Rambus contract and the requirement for sharing
intellectual property."

9

10

A. Yes.

Do you see that?

11 Q. When you say "Rambus contract," do you mean the 12 license agreement that the DRAM manufacturers were 13 signing with Rambus to manufacture the direct RDRAM 14 technology?

15 A. Yes.

16 Q. What did you mean by the requirement in the 17 contract to share intellectual property?

18 There was a provision in the contract that we Α. 19 commonly referred to as patent pooling, and that 20 provision -- I don't recall the exact details, but it 21 had something to do with the requirement that if you 22 had some ideas that Rambus had the opportunity or something to incorporate that in the RDRAM device and 23 24 would automatically be licensed to the other parties 25 without your choice.

So tell me now about your understanding if 1 0. 2 Micron, for example, in the course of designing its 3 version of the RDRAM came up with some way to improve 4 the RDRAM's performance and it was a new and useful 5 idea, you're saying that under the contract Rambus would have the right to use that idea? 6 It's something along those lines. I'm probably 7 Α. 8 not the most expert to speak to that. 9 Ο. I'm just asking for your understanding. 10 And as you understood what you were talking 11 about in this first paragraph of the e-mail to Fujitsu, 12 were you thinking about having the intellectual 13 property that resulted from an individual company's 14 improvements to the RDRAM to be held by the consortium? Is that what you were thinking of, the 15 16 SyncLink Consortium? 17 Α. No. Ο. What were you proposing as a solution to this 18 19 problem? 20 I think the solution was discussed with our Α. 21 counsel, but without getting into the discussion with 22 counsel, the general concern was where we had done some work that really wasn't related to direct RDRAM and 23 24 they somehow got knowledge of that and used that into 25 their RDRAM device and therefore cross-licensed it

1 without our intent.

2 Well, let's move on to the second paragraph. Ο. It says: "Second, we feel that the success of 3 4 DDR is important to SLDRAM and the success of SLDRAM is 5 important to DDR. However, after participating in the DDR forum meetings this month, we were somewhat 6 7 discouraged about some of the problems that DDR still faces." 8 9 Do you see that? 10 Α. Yes. 11 Ο. And what were you referring to -- well, strike 12 that. 13 Were you referring when you said "DDR forum 14 meetings" to those -- to that meeting, special meeting on DDR that occurred April 4, 1997 in Santa Clara? 15 16 Α. Yes. 17 And you say that from the meetings it was Q. apparent that DDR is far behind SLDRAM in 18 understanding some of the challenges for high-speed 19 20 operation. 21 Do you see that? 22 Α. Yes. 23 And you believed that to be a true statement at 0. 24 the time you made it? 25 Α. Yes.

Then if you look down a little bit more, do you 1 Ο. 2 see the line that starts "Further," the sentence that 3 says, "Further, DDR seemed to be a random collection of 4 opinions rather than any sort of consensus." 5 Do you see that? 6 Α. Yes. And as of April 1997, that was your view of 7 Ο. what was happening with DDR at JEDEC? 8 9 Α. It is with regard to certain technical issues. 10 Then you say: "Eventually, almost any idea Ο. 11 became a ballot. We are also concerned about the 12 probability of DDR supporters being able to resolve the 13 technical problems and consensus issues, considering 14 the organization of the meetings." 15 Do you see that? 16 Α. Yes. 17 Were you concerned that having a large group of Q. people in a committee-type arrangement was not the most 18 efficient way to design a high-bandwidth DRAM? 19 20 Certainly not the most efficient way to define Α. 21 one, yeah. I think you used the term "design." That wouldn't normally be what we do. 22 Thank you for the correction. But with the 23 0. 24 correction changing "design" to "define," you would 25 agree with it; correct?

1 A. That's correct.

2 Well, in the next paragraph, the third Ο. paragraph, the last sentence of that paragraph says, 3 4 "However, we heard comments from many customers at the 5 DDR meetings regarding their disappointment and their expectations that DDR will fail." 6 Do you see that? 7 8 Α. Yes. 9 Ο. And that was a true statement as of April 1997 10 that you had heard those comments at JEDEC meetings? 11 Α. We had heard specifically at some of these DDR 12 meetings that they were concerned about the rate of 13 progress. 14 Q. And then in the next paragraph, you say: "Despite the problems with DDR, we are still 15 16 interested in helping to improve this situation. 17 However, we have heard even more disturbing 18 information. From several customers, we have heard 19 that Fujitsu has begun to speak negatively about the 20 possibilities of SLDRAM." 21 Who had you heard that from? 22 Α. I don't recall the customers at this time. You go on to say, "We have heard that Fujitsu 23 Ο. feels that SLDRAM has taken a different direction and 24 25 that they do not support SLDRAM strongly."

1

- Do you see that?
- 2 A. Yes.

Q. Does that refresh your recollection about whatcustomer was telling you this?

A. No. I don't remember today which one it was.
Q. Then you say, "We are rather confused about the
wisdom of such statements."

8 When you said "we" in that sentence, did you 9 mean Micron?

10 A. Yes.

Q. And you say, "We don't believe that such dissension amongst suppliers is in the best interest of the industry, considering the current situation with Intel-Rambus."

15 Did I read that correctly?

16 A. Yes.

Q. And what you were telling this executive atFujitsu is that the manufacturers ought to take a

19 unified position against Rambus; right?

20 A. That's incorrect.

21 Q. You were telling them that you didn't believe 22 that Micron -- strike that. Sorry.

23 What you were telling them -- isn't it the case 24 that what you were telling them is that dissension 25 amongst suppliers was not in the best interest of the

1 industry in Micron's view considering the current

2 situation with Intel-Rambus? Right?

3 A. Correct.

Q. Now, in the next paragraph, you say, in the third sentence, "We have some concern that not only Fujitsu's and Micron's ideas are different but that our actions are opposed and they could slow progress of each device."

9 What were you meaning -- what did you mean by 10 that?

11 Α. What I was meaning in general by this document 12 and that statement is that we had worked together, the 13 companies, both DDR and SLDRAM, and for them to be a 14 commercial success we needed multiple supplier support, and what we were confused by was the fact that Fujitsu 15 16 was involved in the technical development of each of 17 those and then at this point in time then they were saying kind of negative things about it like, oh, 18 it's -- you know, we're not so strong on it, it's not 19 20 coming along, yet they were involved in the development 21 the solution themselves.

Q. And one of your concerns was that that situation might slow progress of both DDR and SLDRAM; right?

25 A. Yes.

1 Q. Now, the last sentence says, "Would you be 2 interested in a conference call?" 3 Do you see that? 4 Α. Yes. 5 Did you have a conference call, after you sent Ο. this e-mail, did you have a conference call with people 6 7 from Fujitsu about the contents of the e-mail or the subject matters in the e-mail? 8 9 Α. I don't recall that we did. 10 Well, a few months later you went to Japan for Ο. 11 a SyncLink Consortium meeting. Let me ask you just a 12 few questions about the minutes from that meeting. 13 It's the June 11 and 12, 1997 meeting, RX-938. 14 May I? 15 JUDGE McGUIRE: Yes. BY MR. PERRY: 16 17 Do you see that you're listed as attending both Q. days of this meeting? 18 19 Α. Yes. 20 Do you remember, was Mr. Ed Heitzeberg at this Ο. 21 meeting? 22 Α. I believe he joined later for the executive 23 meeting. 24 Q. And the executive meeting was the last day of the week, Friday, June 13, 1997; right? 25 For The Record, Inc. Waldorf, Maryland

(301) 870-8025

1 I believe that's correct. Α. 2 And at that meeting there were executives from Ο. 3 various companies that were members of the 4 SyncLink Consortium; right? 5 Α. Yes. I just have one question about this first page 6 0. 7 of these June 12 minutes. Do you see where it says "We have two other 8 9 reflectors" about two-thirds of the way down the first 10 page? 11 Α. Yes. 12 It says "supply@hea.com for DRAM suppliers" and 0. 13 "supplyexec@hea.com for the executives of DRAM supplier 14 companies." 15 Do you see that? 16 Α. Yes. Q. 17 And was it your understanding that executives of DRAM supplier companies could use that e-mail 18 reflector to communicate among themselves? 19 20 A. Yes. I believe it was again just a redistribution of e-mail addresses. 21 22 0. Did you pass that information on to Mr. Heitzeberg, vice president of memory technology 23 24 at Micron, who came to the executive meeting on the 25 13th?

1 I don't recall if I did. Α. 2 Let me show you the minutes of the next meeting Ο. 3 of the consortium on July 15, 1997, RX-966. 4 May I, Your Honor? 5 JUDGE McGUIRE: Go ahead. BY MR. PERRY: 6 7 Do you see that the minutes list you as being Q. present for all three sessions of the July 15-16, 1997 8 9 consortium meeting? 10 Α. Yes. 11 Ο. Do you have any doubt that you were there for at least some of the three sessions? 12 13 Α. No. 14 I just have a couple of questions about page 3, Ο. if you could go to page 3 and review that material down 15 16 to the middle of the page. This won't take long. 17 (Pause in the proceedings.) 18 Now, do you see the reference to you where it says "T. Lee, technical session, started 10:45"? Do 19 20 you see that? 21 Α. Yes. 22 And then three lines down there's some Ο. 23 information that begins, "Consortium should collect 24 information relevant to prior art and Rambus filings and??" 25

Do you see that? 1 2 Α. Yes. Q. Not an opinion -- it says, "Not an opinion, 3 just collect material for all members to use. Dig out 4 5 early minutes of RamLink, et cetera." б Do you remember who was saying these things 7 that I just read? No, I don't. 8 Α. Then it says: "Rambus will sue individual 9 Q. 10 companies instead of consortium. Companies will then ask Gustavson, et cetera, for prior art info. Budget 11

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1 recollection of there being a discussion in the summer
2 of 1997 at an SLDRAM Consortium meeting of how to get
3 organized in case Rambus sued the individual members of
4 the consortium for patent infringement involving the

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1 good answer.

2 Quarter to five. 3 JUDGE McGUIRE: Okay. Then let's take a 4 ten-minute break and then I understand we're going to 5 go again back to the in camera session. I will finish up right before I'm 6 MR. PERRY: 7 done we'll have to go in camera for a bit. JUDGE McGUIRE: Okay. And then maybe at that 8 9 time if we could, Mr. Oliver, have you conduct your 10 cross-examination of any in camera items if you could? 11 MR. OLIVER: That would be fine, Your Honor. 12 JUDGE McGUIRE: All right. Let's take a 13 ten-minute break. 14 (Recess) 15 JUDGE McGUIRE: Mr. Perry. 16 MR. PERRY: Thank you, Your Honor. I was able 17 to jettison some material during the break, so I anticipate we'll be done by 4:30. 18 19 JUDGE McGUIRE: Very good. 20 BY MR. PERRY: 21 0. Mr. Lee, I'd like to show you some materials 22 from another one of those executive meetings of the 23 SLDRAM Consortium. This one took place in Monterey in 24 June of 1998, and I'll ask you to look at RX-1202. 25 May I?

1 Do you see that? 2 Α. Yes. 3 And then another one says "changes in DRAM Ο. 4 business model" and it says "DeDios." 5 Do you see that? 6 Α. Yes. 7 Well, let me show you some slides that we Ο. received that I think relate to those presentations by 8 9 the guest speakers. It's RX-1185. 10 Now, do you see that this first slide says 11 "SLDRAM Executive Summit, What Problem Is Solved by 12 SLDRAM?" 13 Α. Yes. 14 It refers to a gentleman from Inquest named Ο. 15 Bert McComas? Α. 16 Yes. 17 Were you present for his presentation to the Q. SLDRAM executive summit in June of 1998? 18 Yes, I believe so. 19 Α. 20 Well, let's look at the second slide on that Ο. 21 first page. It says, "What problems do we face?" And the first bullet is: Tactical. It says, "Manage price 22 competition and profitability." 23 24 What did Mr. McComas say about how SLDRAM might 25 be used to solve the problem managing price competition

1 in DRAM industry?

2 I don't recall. I recall Bert giving a Α. presentation. I don't recall the details of the 3 4 presentation very well. 5 Did he say anything about how to manage price Ο. competition among DRAM suppliers at this conference? 6 7 I can only answer by repeating what's in the Α. remaining foils. I really don't remember this very 8 9 well. 10 Ο. Okay. Well, he then has a bullet point that 11 says "strategic." Do you see that on this first page? 12 13 Α. Yes. 14 It says: "Respond to the strategic threat of Ο. Intel/Rambus. Who will control the DRAM industry?" 15 16 Do you see that? 17 Α. Yes. By the way, who was there besides you from 18 Ο. Micron for this presentation? Was there an executive? 19 20 A. Yeah, there would have been. Probably 21 Gene Cloud. 22 What did Mr. McComas say about the strategic Ο. threat of Intel/Rambus in his presentation? 23 24 Α. Again, I don't remember this very well. I'm 25 not much help here.

Q. Well, let me see if the next page refreshes 1 2 your recollection. 3 If you could bring up the top slide, let's 4 start with the top one. 5 That says: "Intel's Battle for Control. Intel/Rambus are using your money to take control of 6 7 the DRAM industry." Did Mr. McComas tell the assembled DRAM 8 9 executives that Intel and Rambus were using the DRAM 10 manufacturers' money to take control of the DRAM 11 industry? 12 Again, I think in the interest of time, I don't Α. 13 think I'm much help on this whole foil set, so --14 You just didn't pay any attention? Ο. 15 I just don't remember this presentation very Α. 16 I assume I was in the room, but maybe I wasn't. well. 17 Well, let's go on a little bit more if we Q. could. 18 19 Α. Okay. 20 Q. It says --21 MR. OLIVER: Objection, Your Honor. He just 22 said he doesn't remember the foil set. I just don't 23 see the need to continue this line by line. 24 MR. PERRY: Your Honor, it won't take long, 25 but I'm entitled the see if it refreshes his

1 recollection.

2 JUDGE McGUIRE: Go ahead, Mr. Perry. 3 BY MR. PERRY: 4 Q. On this same slide it says, "Intel will attempt 5 to control supply and demand for DRDRAM, orchestrate early oversupply situation." 6 7 Were you, Mr. Lee, concerned at the time in June of 1998 that Intel might try to orchestrate an 8 9 oversupply situation of RDRAM? 10 Α. There were concerns in the industry -- I think 11 I shared those -- that Intel was manipulating supply. Of RDRAM? 12 Ο. 13 Α. Of DRAM memory products in general. 14 And was there a concern that Intel might Ο. orchestrate an oversupply of Rambus DRAM as well? 15 I believe the concern included Rambus as well. 16 Α. Now, if you'll look at the bottom slide, 17 Q. please. 18 That one says, "Will Rambus dominate?" 19 And in 20 the second bullet point says, "Will Rambus be 21 mainstream or specialty." 22 Now, putting aside how Mr. McComas was using those terms, did you have an understanding in 1998 of 23 24 what mainstream memory was? 25 Mainstream would more typically be referred to Α.

as main memory or the highest-volume memory, and 1 specialty typically would be things like graphics or 2 3 communications or usually non-main memory applications. 4 Ο. And then it says "profitable or unprofitable, 5 high or low volume, oversupply or undersupply." Do you see that? 6 Α. 7 Yes. Let me ask a specific question about 8 Ο. 9 Mr. McComas' presentation of this slide. 10 Did Mr. McComas suggest when he was presenting 11 this slide to the DRAM executives that the 12 manufacturers send their respective RDRAM production 13 plans to him so that he could determine whether or not 14 there was an oversupply situation looming? 15 Again, I don't really recall this Α. 16 presentation. 17 Well, I want to try to refresh your Ο. recollection with a different document that describes 18 19 that presentation. 20 Α. Okay. 21 Ο. This will just take a second. It's RX-1208. 22 And before I show this to you, let me say that this was prepared by Infineon. There's references to 23 24 other meetings where you weren't at and I'm not going 25 to ask you anything about those other meetings.

1 A. Okay.

2 Ο. I'm only going to ask you about a meeting you 3 attended. 4 May I, Your Honor? 5 JUDGE McGUIRE: Yes. BY MR. PERRY: 6 This was produced to us, as I said, by 7 Q. Infineon, and if you'll look on page 4, you'll see a 8 9 reference to the SLDRAM executive meeting on Thursday, 10 June 25. 11 Do you see that? 12 Yes. Α. 13 And you remember that there was somebody from 0. 14 Infineon at the meeting; right? 15 Α. Yes. I believe they were Siemens at the time, 16 but yes. 17 Q. Right. 18 And I want you to look at the very last bullet You can read the whole thing if you want, but 19 point. 20 my only question is about the very last bullet point at 21 the bottom of this page. 22 (Pause in the proceedings.) 23 JUDGE McGUIRE: I'm going to ask you, Mr. Lee, 24 just to read that bullet point, and then if you feel 25 compelled to go back, then you can do so.

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THE WITNESS: Yes. I'm sorry.

Is this page 4 then?

3 BY MR. PERRY:

4 Q. Page 4.

A. I was on the wrong page.

Q. The bullet point that starts, "What problem is
solved by SLDRAM (Guest Speaker Bert McComas)," do you
see that? Read that to yourself.

9 A. Okay.

Q. And one of the things it says in that bullet point is, quote, "McComas made suggestion to the audium" -- A-U-D-I-U-M -- "that every DRAM vendor sends the Rambus production plan for the next year in order to cross-check whether Intel has managed to generate an oversupply situation."

Now, does that refresh your recollection that Bert McComas, when he was making his presentation in June of 1998 at the executive summit, suggested that the DRAM manufacturers send their Rambus production plans to him in order to cross-check whether Intel had generated an oversupply situation?

A. Again, I just really don't recall it. Sorry.
Q. Well, it was your understanding at the time
that an oversupply situation would have the result of
lower RDRAM prices; right?

1 An oversupply situation would likely have the Α. 2 effect of lower memory prices. 3 Okay. Well, let's move on if we could, going Ο. 4 back to RX-1185. And I know you've said you don't 5 really recall any of this. Let me skip over to very near the end at page 5. 6 7 The bottom slide says, "What should SLDRAM Inc. become?" 8 9 Do you see that? 10 Yes, I do. Α. 11 Ο. And look over on the next page, page 6, and 12 I'll just ask you about this one more slide, this top slide that says "Importance of SLDRAM Inc." 13 14 One of the bullet points there is that 15 fragmented competition undermines all DRAM 16 manufacturers, then it says, "SLDRAM will be as powerful as we make it." 17 18 Did you hear Mr. McComas say those words in this room of DRAM executives? 19 20 A. Again, I really don't recall his presentation very well, so... 21 22 Did any of the executives in the room, as you Ο. 23 recall it, stand up and leave during his presentation? Stand up and leave? 24 Α. Make a public display of leaving during 25 Ο. Yes.

1 his presentation?

2 It was not uncommon during this meeting -- it Α. 3 was a pretty long meeting -- to get up, go outside, 4 have a cup of coffee, whatever. Perhaps that's why I 5 don't remember all of this. Let me ask you this. 6 0. Did anyone anybody stand up and say, I can't 7 stand this, I'm leaving, I'm not supposed to be 8 9 listening to this, this is wrong? Did anybody say that 10 as far as you can recall? 11 Α. I don't remember any comments like that from customers or suppliers, either one. 12 13 Now, did you ever attend any meetings of an 0. 14 organization known variously as M9, M11, M14? 15 I think I may have attended one meeting, Α. 16 possibly two. 17 O. Well, let me show you some e-mails produced to us by IBM, RX-1257. 18 May I? 19 20 Now, this is a very short couple of e-mails. Ι 21 see that you're listed as a recipient of the top e-mail 22 and apparently as a sender of the bottom e-mail, so take a look at it if you could. 23 24 (Pause in the proceedings.) 25 Okay. Α.

1 Q. Did you attend a meeting of M9 in 2 September 1998 wherein Micron Electronics made a presentation? 3 4 A. I was in attendance at an M9 meeting -- I think 5 that was the number; the number changed sometimes -where Micron Electronics made a presentation. 6 7 Q. What did you understand M9 to be when you went to the meeting? 8 9 Α. My understanding of M9 was it was a -- I think their agenda was to do some joint PR, some joint 10 11 promotion. And you understand M stood for manufacturers? 12 Ο. 13 Α. I don't remember what it stood for. 14 Ο. And the number meant the number of 15 manufacturers that were members at the time of that 16 meeting?

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1 A. Yes.

2 Q. Who else went to M9 meetings or M11 meetings3 from Micron?

A. I think Terry Walther and perhaps Mike Seibert
attended. Like I said, I think I attended one or two
meetings and that was about it.

Q. Now, moving off of M9 for the moment, were you present for a meeting at Micron in Boise where Hyundai, NEC, MOSAID and Siemens came to talk about the incorporation of virtual channel architecture within SLDRAM?

12 A. Yes. We hosted a meeting for SLDRAM and we 13 were looking at what we called SLDRAM II, the 14 next-generation SLDRAM, and we were exploring 15 architectural choices for that and virtual channel was 16 one of those architectures.

Q. And by the time you were considering virtual channel, that was about the fall of '98; right, when you were talking about SLDRAM II?

20 A. That sounds roughly correct.

21 Q. And Jeffrey Lee was there from NEC?

A. I don't recall the exact attendance, but I
think the companies that you mentioned were all
correct.

25 Q. Now, did you create any memoranda about that

1 meeting?

2 I don't recall. Α. Did you take any notes at the meeting? 3 0. 4 Α. I don't recall that I did. 5 And were you present for any discussion of Ο. creating a new organization as a successor to SLDRAM at 6 7 that meeting? I don't recall that discussion. I don't recall 8 Α. 9 the new organization. I do recall the new 10 architecture. It was primarily a technical meeting and 11 I attended for part of that. 12 I've got a memo from the Infineon 0. 13 representative who was there who purports to describe 14 an idea you had, and I want to show this to you and see if it refreshes your recollection about what you 15 16 presented at that meeting. It's RX-2192. 17 May I? 18 JUDGE McGUIRE: Go ahead. BY MR. PERRY: 19 20 Now, I know that you didn't prepare this, but I Ο. 21 just want to talk to you for the time being about 22 page 3 that begins with your name. So take your time and read that to see if it 23 24 brings back a recollection. 25 (Pause in the proceedings.)

1 A. Okay.

2	Q. Now, this says that at this meeting Terry Lee
3	presented the idea to integrate the fragmented
4	activities to define a future DRAM under the common
5	roof of SLDRAM Inc., possibly changing the name to
6	something like Future DRAM Inc."
7	Do you see that?
8	A. Yes.
9	Q. Does looking at that refresh your recollection
10	that you had come up with an idea in about this time
11	frame, fall of '98, about creating a new kind of
12	organization?
13	A. This refreshes my recollection, but I think the
14	way you'd asked the question was whether we were going
15	to create a new organization. I think this was a name
16	change.
17	Q. Tell me what it was that you came up with as an
18	idea.
19	A. What I recall about it was that it took a quite
20	a long time to work out the details of the consortium
21	to work together on these technical activities, and so
22	we felt one of the problems with the consortium was we
23	tied the name to a specific technology or a specific
24	definition, and so we thought it made sense to give it
25	more of a generic name and continue to use the

consortium to develop technology and develop kind of
 future DRAM road maps going forward.

Q. Is this idea that you're just describing, wasthat the genesis for what became ADT?

5 A. No.

Was it the genesis for what became AMI-2? 6 Ο. I can't even exactly say that. 7 Α. No. This was an idea we thought would be a reasonable way to take 8 9 benefit of the work that had already been done in the 10 consortium and set up the structure and continue 11 technical activities, but it really didn't get 12 approval.

Q. Okay. Had you discussed that idea with others
at Micron before you brought it up at this meeting?
A. For the name change?

16 Q. Yeah.

A. I'm not sure. It's possible that I talked
with Kevin Ryan, but I don't recall a specific
conversation.

Q. Well, look at the bottom of the prior page, if you would. There's a reference, just before the top of the third page where it talks about you, there's a reference to Farhad Tabrizi.

24 Do you see the third bullet point up?25 Do you see where it says "According to

1 Farhad Tabrizi"? Do you see that?

2 A. Yes.

That says: "According to Farhad Tabrizi, 3 Ο. 4 Hyundai has given Rambus ASP projections for end of 5 next year of two to three times today's SDRAM prices; they also gave to Intel a production projection of 6 7 three times their actual plans. They encourage every DRAM manufacturer to do the same in order to let Intel 8 9 not generate a Rambus oversupply." 10 Do you see that? 11 Α. Yes. 12 You heard Mr. Tabrizi say that in this Ο. 13 meeting? 14 Α. No. 15 Did you hear Mr. Tabrizi describe the Ο. 16 projections he had given to Rambus or Intel? 17 Α. I think the top line says, "Other No. 18 information collected during and besides the meeting," 19 so I suspect that was probably outside the meeting. My 20 company doesn't allow me to engage in those kind of 21 discussions with competitors. 22 So you're certain that you did not hear Ο. Mr. Tabrizi describe the fact that he had given Intel a 23 24 production projection of three times Hynix's actual 25 plans, you're certain of that?

I think this kind of information would have 1 Α. 2 been very unusual, so there's a higher likelihood that 3 I would have remembered that. 4 Q. So you're certain you didn't hear it? 5 Α. To the best of my recollection. And you're certain that you'd never heard 6 Ο. 7 Farhad Tabrizi encourage Micron to give Intel false production projections in order to prevent Intel from 8 9 generating an oversupply of RDRAM? 10 Α. I don't recall anything like that. I wouldn't 11 have taken any such advice. 12 Well, let me show you an e-mail from Ο. 13 Mr. Tabrizi to you a few months later, February 1999, 14 RX-1386. 15 May I? 16 JUDGE McGUIRE: Go ahead. BY MR. PERRY: 17 18 Now, this was produced to us by Hynix, Mr. Lee, Ο. and sometimes what they would do when they gave us 19 20 documents is, if it was a company name or a device 21 name, they would blot it out. 22 So I believe that Deepak Mithani worked at Rambus. I know that to be a fact. 23 24 So you see that the word "Rambus" is blotted 25 out at the bottom in her e-mail address. And I can

represent to you that I believe that the blotted-out 1 2 part in the e-mail to you is "RDRAM," which they would also blot out from time to time. 3 4 So let me just ask you if you recall 5 Mr. Tabrizi inquiring of you in February 1999 about what Micron's projections were for its 1999 production 6 7 of RDRAM. I don't really recall this, but I'm really the 8 Α. 9 wrong person to even ask that question. I'm not really 10 responsible for supply or pricing. 11 Ο. But Mr. Tabrizi and you knew each other pretty well; right? 12 13 Α. Yes. 14 Well, did he ask you in February 1999 to answer Ο. a question about what Micron's 1999 RDRAM production 15 forecast was? 16 Α. Well, in this e-mail he asks if it's a 17 possibility that the number in this Nikkei forecast is 18 possibly correct. 19 20 He did send you this e-mail; right? Ο. 21 Α. Yes. 22 And he wanted you to confirm or deny the Ο. published reports of what Micron's share of the RDRAM 23 24 market would be in 1999; right? 25 He seems to request that. I guess I'm pausing Α.

In the first paragraph it says "in 1999." 3 Ο. Α. Okay. I guess he requested that. 4 5 Did you send Mr. Tabrizi an answer? Ο. I don't recall. 6 Α. 7 Did you call him up and give him an answer? 0. I don't recall. I wouldn't have had the 8 Α. 9 information. You could have gotten it, couldn't you? 10 Ο. 11 Α. I suppose I could have in that I worked for 12 Micron, but I -- this just isn't part of my job 13 responsibilities. I'm a technical guy. 14 Were you present at the meeting of the Ο. 15 SLDRAM Inc. board of directors when they voted to 16 change the name to AMI-2? 17 I was present at an executive meeting where we Α. were discussing what to do with the future of SLDRAM. 18 I think it was the last of the three executive 19 20 I'm not sure if I was there when they voted meetings. 21 on a name change. 22 Q. Let me show you some minutes, at least they appear to be minutes of the SLDRAM Inc. board of 23 24 directors meeting from March 1999 produced to us by Fujitsu, RX-1406. 25 For The Record, Inc.

here because I'm not sure from the article whether that

1

2

was meant to be '99.

1

2 JUDGE McGUIRE: Yes.

May I?

3 BY MR. PERRY:

4 Q. Do you see that you're listed as an attending5 member?

6 A. Yes.

Q. Well, let me point you to the part of the
minutes that I want to talk to you about, and that's on
the third page.

10 I just wanted to ask you about the top third.

11 (Pause in the proceedings.)

12 This says, "JEDEC does much more than RAM, 13 staff is overloaded."

14 Do you see that?

15 A. Yes.

16 Q. And did you have -- you personally have some 17 frustration in '98 or '99 about the JEDEC staff?

18 A. I think I need to clarify something here in a19 document. I think it's important.

20 Q. Sure.

A. I'm not sure if I was at this meeting eventhough it has my name on the front of it.

23 Q. Oh, really. Okay.

A. I don't remember. And if you look at page 3,
there is a "Terry W." there. "It's okay for companies

1 to drop out if they want."

2 Q. So tell me where you're talking -- down at the 3 bottom?

4 A. Yeah.

5 So that would be Terry Walther, and Terry and I 6 both work at Micron marketing and sometimes there was 7 some confusion there, so it's odd that he wouldn't show 8 on the list of attendants but Terry W. is making a 9 comment down below. So I'm not --

10 Q. It's odd if he was making a comment you would 11 be listed in the attending list?

A. So I'm wondering if perhaps they put the wrongTerry up there, which does happen sometimes.

Q. Let me just ask you if you remember being at a meeting of SLDRAM where someone said, "We made a big investment building this corporate shield. Avoids antitrust problems."

18 Does that ring a bell?

A. I'm not sure. There's in fact here another comment later on with Terry Walther's name specifically spelled out, and then I don't recall a meeting at Hitachi regarding SLDRAM, so I'm kind of questioning whether I'm the right person here.

Q. Okay. I'll pass the document. That's fine.A. Okay.

1 Q. Let me show you one where it was sent to both 2 you and Terry Walther, so I think I'm on safe ground 3 here. It's RX-1444, dated April 26, 1999. May I, Your Honor? 4 5 JUDGE McGUIRE: Go ahead. BY MR. PERRY: б 7 Q. Now, let's pull up the bottom half of this e-mail if we could. 8 pul 8look 6 MRld. jLsrcensstteyI .T

Α

1 Q. Now, going back to page 1 and focusing on 2 Mr. Ryan's comment, do you remember getting an e-mail from Mr. Ryan in April 1999 that says, "Another article 3 4 showing that Samsung has broken ranks with the other 5 suppliers and sold their soul to the devil"? I remember the article. I don't -- I don't б Α. 7 specifically recall that he forwarded it to me, but obviously he did from this. 8 9 Q. Do you remember getting an e-mail from Mr. Ryan Mr. Rya 15 Do you remember getting an e-mail with that Mr. Ryan Mr Q. 19 Α. No. Do I see my name on here? Yes. 20 And then there's a response up above that to Ο. 21 Mr. Ryan from M. Seibert. 22 Do you see that? 23 Α. Yes. 24 S-E-I-B-E-R-T. Ο. 25 What was his position in April of 1999?

2 but Mike Seibert was responsible for -- he was doing 3 kind of segment marketing. He was working with -- he 4 had focus on chipset suppliers. 5 Q. And he responded to Mr. Ryan, "No kidding, Kevin." 6 And the Kevin there is Kevin Ryan; right, as 7 you understood it? 8 9 Α. Yes. 10 Ο. He said: "These guys are big trouble for us 11 all. If this thing gets into an oversupply mode with 12 RDRAM, things could get really ugly. Bob and Jeff, do 13 these idiots (Samsung in this case) understand what the 14 Rambus-Intel biz model will do to our autonomy?" 15 Do you remember getting that e-mail from 16 Mr. Seibert in April of 1999? 17 The thing that I remember specifically is I Α. remember aspects of the article and I remember some 18 discussion that followed their e-mail. 19 20 0. And do you remember that Mr. Seibert asked 21 questions of Bob Donnelly and Jeff Mailloux about

I think -- I don't recall what his title was,

whether Samsung understood what the Rambus-Intelbusiness model would do to the autonomy of the DRAM

24 manufacturers?

1

Α.

25 A. Only from the context of this e-mail. I think,

1 just to try to speed things along, I think the issue is 2 I have a general recollection. Your questions are more specific than my recollection. 3 4 Q. I am trying to ask specific questions, but I 5 just have a couple more. Do you see that Bob Donnelly, the б 7 vice president of DRAM products at the time, responded to Mr. Seibert's e-mail? 8 9 Α. I see that he responded, yes. And he copied you; right? 10 Q. 11 Α. Yes. 12 And he said, "I've certainly made the point Ο. 13 with the officers that Intel is essentially disabling our marketing, apps and design, and other key parts of 14 15 the company, and ultimately could control the DRAM 16 industry the same as they have others."

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1 That's my understanding, yes. Α. 2 You understood that the question that Bob --Ο. 3 that was asked by Mr. Seibert to Bob and Jeff was 4 whether Samsung understood. Do you see that? 5 Α. Yes. And that was what you understood at the time; 6 0. 7 right? I'm sorry. I'm having a little trouble with 8 Α. 9 the siren. Let's wait for the siren to subside. 10 Ο. 11 JUDGE McGUIRE: Take a break. Take a couple 12 minutes. 13 (Pause in the proceedings.) 14 BY MR. PERRY: 15 And you understood that Mr. Donnelly had Ο. 16 answered that question by talking about Micron's officers; is that your testimony? 17 18 Α. Yes. Well, I want to switch gears a little bit and 19 Ο. 20 talk a little bit about some of the road maps that you 21 talked about yesterday with Mr. Oliver. 22 Α. Okay. 23 Do you remember some of these marketing 0. 24 presentations? I just have a few questions about each 25 of them. They're thick documents. I would prefer to

point you to the places where I'd like to talk to you 1 2 about since you identified these yesterday. 3 And I'm going to start with CX-2735. That 4 should be near the bottom of your stack, April 1999. 5 It's called Micron DRAM Update, April 1999. Α. 2735? 6 7 2735. Ο. 8 Do you have that? 9 Α. Yes. 10 And I'm going to rely upon the record Ο. 11 Mr. Oliver laid yesterday to describe this document. 12 I'm going to move forward simply to a page that you 13 talked about with him, page 35. And this says, "Micron has three direct Rambus 14 15 testers"; right? 16 Α. Yes. 17 And you talked about problems with Rambus Q. 18 testers yesterday. My question simply is: What did Micron do with 19 20 its three direct Rambus testers? 21 What do you mean, what did we do with them? Α. 22 Ο. You don't manufacture direct Rambus anymore, do 23 you? 24 Α. No. Not at this time. 25 You never manufactured it in production volume, Ο.

1 did you?

2 We internally validated the part and we did Α. 3 send some samples, but we never produced it in large 4 volumes. 5 Q. So you never even needed three direct Rambus testers, did you? 6 7 A. Our projection was that we needed quite a bit 8 more than that. 9 Ο. But it didn't turn out that you needed them; 10 right? 11 Α. I don't think we needed them for the volumes that we produced. 12 13 And you were then able to use those testers to 0. 14 test DDR; right? 15 Α. No, not exactly. 16 You had to modify them? 0. 17 I get all of this information through my test Α. department, but I had heard a discussion even fairly 18 19 recently that we got stuck with some orders for some 20 Rambus testers that we weren't able to use for our 21 current products. 22 Have you tried selling them to Samsung? Ο. 23 Α. I don't know. I have no idea what they do with that stuff. 24 25 Q. Do you have any knowledge as to whether or not

1 Samsung is making money making RDRAM? Do you know one 2 way or the other? MR. OLIVER: Objection, Your Honor. Lack of 3 4 foundation. 5 JUDGE McGUIRE: Sustained. BY MR. PERRY: 6 7 Q. Let me look at -- let me ask you about CX-2737. It's your May 1999 -- it's a different document, 8 9 Mr. Lee. I'm sorry. I'm going too fast. May '99. RX-2737. 10 11 Α. Okay. 12 And I'll just ask you to look at page 40. Ο. Ιt 13 says "DDR SDRAM Overview." 14 Do you see that? 15 Α. Yes. And it refers to eleven DRAM vendors 16 Ο. 17 collaborating to enable the standard (M11 group). 18 Do you see that? 19 Α. Yes. 20 Was Micron a member of the M11 group at the Ο. time that this May '99 DRAM product update was 21 22 prepared? 23 Α. I believe they were. That's the changing 24 number from what I told you about earlier. 25 MR. PERRY: Your Honor, I've come to the spot For The Record, Inc.

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2 be done. 3 JUDGE McGUIRE: Okay. Very good. 4 Again, the audience, I apologize, but we're 5 going to have to again go into closed session, so all of you who aren't cleared to hear this evidence, please 6 7 excuse yourselves from the courtroom and it will be 8 indicated to you when we go back into the public 9 session. 10 (Pause in the proceedings.) 11 JUDGE McGUIRE: Mr. Oliver, can you again 12 certify that everyone on your side of the aisle is 13 cleared for this testimony? 14 MR. OLIVER: Again, for Micron information, 15 yes. 16 JUDGE McGUIRE: And Mr. Perry? 17 MR. PERRY: It is all Micron information, and I can certify that the folks on the Rambus side are all 18 authorized to --19

where I need to do some in camera work and then we'll

1

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20 JUDGE McGUIRE: Very good. Then at this time 21 this hearing is now in in camera session.

(The in camera testimony continued in Volume 34, Part 2, Pages 7066 through 7091, then resumed as follows.)

JUDGE McGUIRE: Then at this time we are back

1 in the public session of this hearing.

2 MR. OLIVER: I'm sorry, Your Honor. Could we 3 have just one more minute? 4 JUDGE McGUIRE: Go ahead. 5 MR. OLIVER: I had some documents set aside, but in the flurry of documents this afternoon I believe 6 7 we've managed to misplace them. JUDGE McGUIRE: Go ahead. 8 9 (Pause in the proceedings.) BY MR. OLIVER: 10 11 Q. Okay. Mr. Lee, I have a question just I think in four topics. I think we'll be fairly brief. 12 13 First, I did want to ask one follow-up 14 question, or perhaps more than one, but at least initially one follow-up question on a document that was 15 16 showed to you fairly early this morning. This is 17 CX-1314. 18 If we can bring this up on the computer screen, and again if you can let me know if you want to find 19 20 the paper copy, we can do that or try to --21 Α. I'm just going to try to look off the screen at 22 this point. This is a document entitled Micron December 14, 23 0. 1995 with certain slides. 24 25 Do you recall that Mr. Perry asked you about

1 page 1 and page 2 and at that time you could not recall 2 having seen those slides?

3 I want to ask you about one other page and see4 if that refreshes your recollection.

5 A. Okay.

6 Q. If we could turn, please, to page 3.

7 And if we could blow up the top slide.

It's a bit difficult to read, but it appears to 8 9 be a slide. In the left-hand side it's a diagram ASIC 10 and then there's eight horizontal wavily lines and then 11 two vertical sets of blocks, it says "DRAM" and then 12 underneath that in the third bullet point "110 pins to 13 memory" and in the right-hand side ASIC and there is a 14 line standing horizontally to RDRAM and then the third bullet point of that "31 pins to memory." 15

I simply want to ask if that refreshes your recollection as to whether you've seen that slide as part of any Rambus presentation to Micron in December of 1995.

A. Again, I don't recall the specifics of the presentation that they gave us at the time. It was just this kind of nature, if you will. This kind of figure and stuff was available I think on their Web site and some of their literature.

25 Q. Okay. If you don't recall having seen that at

1 that time, I'll simply move on.

Next, Mr. Lee, I wanted to follow up on a
couple of documents that Mr. Perry asked you about this
morning.

5 First was RX-855, and this is a set of the 6 minutes from the SyncLink meeting of January 14 and 15, 7 1997.

8 And if we could go down towards the bottom of 9 the page, there's a two-line paragraph beginning 10 "Siemens." And Mr. Perry asked you some questions 11 about portions of this, this paragraph here, and I'd 12 like to focus on certain portions he did not ask you 13 about.

14 First let me identify the entire passage. Ιt "Siemens was eloquent. No future RB road map. 15 reads: 16 Letting one company control industry is crazy. 0.1 percent royalty okay, 1-2 percent ridiculous. 17 RB not acceptable. We should address PC market also." 18 Do you see that, that statement there? 19 20 Α. Yes.

Q. Now, my question is: At the time that you saw these minutes, what, if any, was your understanding of the statement "0.1 percent royalty okay"?

A. He was -- Mr. von Zitzewitz was describing at that meeting that for the Rambus interface technology

had the royalty been on the order of .1 percent they 1 2 wouldn't have had a problem with it and he thought the 3 1 to 2 percent royalty rate was ridiculous for what 4 they were asking for. 5 If we could then bring up RX-852, please. Ο. This is an e-mail that Mr. Perry again asked 6 you about this morning. I believe that you said that 7 you wrote the portion of it beginning in the lower part 8 9 of the first page, going over to the second page; is 10 that right? 11 Α. Yes. 12 Ο. If we could turn to the second page, again, the 13 next to last paragraph underneath Siemens. 14 And here again you recall that Mr. Perry asked you about certain portions of this paragraph? Do you 15 16 recall that? 17 Α. Yes. Again, I'd like to pick up a couple things that 18 Ο. 19 he did not ask you about. 20 First, if you look in the fourth line, again, 21 there's a reference "0.1 percent royalty would have 22 been okay." 23 Do you see that? 24 Α. Yes. 25 Now, is that essentially the same reference as Ο.

1 to which you just testified a moment ago?

Yes. I believe so. 2 Α. 3 0. If I could direct your attention to the second 4 line of that paragraph, it reads, "License is okay for 5 niche but not for main memory." Do you see that? 6 Α. Yes. 7 Could you please explain your understanding of 8 Ο. 9 that statement at the time that you wrote this. Yes. He had made a statement on the order that 10 Α. 11 having a license fee for some small-volume product would be reasonable, but it didn't make sense for a 12 13 very high-volume product of that magnitude for main 14 memory. 15 And did you have an understanding at that time 0. 16 of why? 17 Of why he felt that way? Α. Ο. 18 Yes. 19 Α. I guess I don't -- I can't really speak for what his feeling was on it. 20 21 Ο. Let me ask you a different question then. 22 At that time did you agree with that 23 statement? 24 Α. I would agree that the kind of royalty rate 25 that was being requested there, the 2 percent, was

1 larger than anything we'd ever heard of for an

2 interface technology and certainly the largest thing we
3 ever heard of for some sort of fee we'd have to pay to
4 produce main memory.

Q. Switching topics again, Mr. Lee, during your
testimony this morning, you referred I believe to
patents for defensive purposes. Do you recall that?
A. Yes.

9 Q. And I was wondering if you could just simply 10 explain for the record what you meant by that reference 11 to patents for defensive purposes.

12 A. In the context of SyncLink? Was that the13 statement you're referring to?

14 Q. Yes.

A. Okay. Our concern was that we were coming up with innovations, new ideas for this architecture that we were doing, and we were concerned that later on some company might try to assert patents on as far as our innovations, and so the only way to protect ourselves was to file patents.

Q. And could you explain how filing patents wouldallow you to protect yourselves.

A. As I understand it, it would establish a prettyclear priority date and establish inventorship.

25 Q. And then the final thing I wanted to ask you

about, Mr. Lee, was with respect to the SyncLink
 meetings generally.

Now, based on your observations at the meetings
that you attended, did representatives of any Micron
customers attend SyncLink meetings?

6 A. Yes. Regularly.

Q. Can you identify Micron customers who sentrepresentatives to the SyncLink meetings?

9 A. Sure. Some of the customers include IBM, HP, 10 Motorola. There were some -- Apple was there. There 11 were some -- also some connector suppliers and some 12 other different companies that attended.

Q. And so would it be fair to say that for various discussions that have been summarized here today that Micron customers were present at those discussions?

MR. PERRY: Objection. Compound. Leading.Doesn't refer to any particular discussion.

MR. OLIVER: Your Honor, I'm simply trying tosave time at this point at this time of day.

21 MR. PERRY: The minutes will show who was 22 present. If it was inside the SyncLink meeting, we've 23 got memos that describes who's present.

24 JUDGE McGUIRE: Overruled. I'll hear the 25 question.

MR. OLIVER: Thank you, Your Honor. 1 2 It was typical, I think always THE WITNESS: 3 the case, that we had customers at those meetings. 4 MR. OLIVER: I have nothing further, 5 Your Honor. Thank you, Mr. Oliver. 6 JUDGE McGUIRE: Mr. Perry, further recross? 7 8 MR. PERRY: I just have a couple, Your Honor. 9 RECROSS-EXAMINATION 10 BY MR. PERRY: 11 Ο. I'm going to ask that we bring back up on the screen RX-855 that Mr. Oliver showed the witness, and 12 that's the SyncLink or SLDRAM Consortium minutes for 13 14 January 14 and 15, 1997. 15 And you were present for this; right, Mr. Lee? 16 Yes. Α. 17 Let's look at the bottom half, please. Q. 18 Let's bring up the part -- yeah, just bring up 19 the whole part of it. 20 And what Mr. Oliver was asking you about was 21 the reference to the discussion by Siemens in the 22 Yokohama meeting January 10 of the royalty rates that 23 Siemens was paying for the Rambus license; right? 24 Α. I don't think he specifically said that that's 25 what they were paying. He just said these ranges were

1 appropriate or inappropriate.

2 Was it common for you to be in a room of your 0. 3 competitors where your competitors were talking about 4 what their prices were that they were paying for 5 anything? 6 Α. No. Do you think it's appropriate -- strike that. 7 0. Did anyone at the meeting of DRAM executives 8 9 say that it was inappropriate for Siemens to be expressing its views to its competitors that it didn't 10 11 like paying 2 percent to Rambus as a royalty? 12 MR. OLIVER: Objection, Your Honor. 13 Mischaracterizes the document. 14 BY MR. PERRY: 15 Let me ask it this way. Ο. JUDGE McGUIRE: 16 Restate. BY MR. PERRY: 17 18 Did any DRAM executives stand up and say to Ο. Mr./Dr. von Zitzewitz from Siemens that he shouldn't be 19 20 talking about pricing in front of his competitors? 21 Α. I don't think this is pricing. This represents 22 a cost. Is it your understanding that Micron's 23 0. 24 employees aren't supposed to talk about the costs that 25 Micron pays for things in front of their competitors?

A. We -- talking about relative cost isn't really 1 2 a problem, but again, I don't see where Siemens has 3 stated that this is what they're paying. Q. You understood Dr. von Zitzewitz to be saying 4 5 that nobody, no DRAM manufacturer should agree to pay 1 percent or 2 percent on main memory; right? 6 A. No. I think that mischaracterizes again. 7 Ι think what he said was these kind of numbers were 8 9 reasonable and these kind of numbers were ridiculous. 10 Q. And he was urging the rest of the DRAM 11 manufacturers to adopt the same view; right? 12 Α. I disagree. 13 Did anyone stand up and say to Ο. 14 Mr. von Zitzewitz that it was inappropriate in their view for him to be talking about prices, royalty rates, 15 16 in front of a roomful of competitors? 17 Α. No. MR. PERRY: I have nothing further. 18 19 JUDGE McGUIRE: Okay. Thank you very much. 20 MR. OLIVER: Nothing further, Your Honor. 21 JUDGE McGUIRE: I guess that's it today, 22 Mr. Lee. You're excused from this proceeding and thank you for your testimony. 23 24 THE WITNESS: Thank you. 25 JUDGE McGUIRE: Could I ask you, Mr. Oliver,

1 what's on tap for tomorrow?

2	MR. OLIVER: Your Honor, tomorrow we begin the
3	testimony of our economic expert, Professor McAfee.
4	JUDGE McGUIRE: And you're still on case to
5	conclude your case in chief by the end of the month?
б	I mean, I thought that was our understanding
7	from a few days ago.
8	MR. OLIVER: Yes, Your Honor. We've fallen
9	slightly behind schedule with respect to depositions.
10	I still hope that we can do it by the end of the day
11	Monday, but it's a little less sure at this point.
12	JUDGE McGUIRE: We'll see how it goes.
13	MR. PERRY: And if it's appropriate, we'd like
14	to move in some exhibits at the beginning of tomorrow.
15	JUDGE McGUIRE: That's fine.
16	All right. This hearing is excused until 9:30
17	in the morning.
18	(Time noted: 5:07 p.m.)
19	
20	
21	
22	
23	
24	
25	

1 CERTIFICATION OF REPORTER 2 DOCKET NUMBER: 9302 3 CASE TITLE: RAMBUS, INC. 4 DATE: June 24, 2003 5 I HEREBY CERTIFY that the transcript contained 6 7 herein is a full and accurate transcript of the notes taken by me at the hearing on the above cause before 8 9 the FEDERAL TRADE COMMISSION to the best of my 10 knowledge and belief. 11 12 DATED: June 24, 2003 13 14 15 16 JOSETT F. HALL, RMR-CRR 17 CERTIFICATION OF PROOFREADER 18 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 For The Record, Inc. Waldorf, Maryland

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