



2003 (“Mitsubishi’s Discovery Materials”). A number of documents that were part of Mitsubishi’s Discovery Materials were admitted in evidence in this proceeding on May 12 and May 21, 2003. These documents were not admitted *in camera* and access to these documents, once they were admitted, was not restricted; the documents became part of the public record.

4. After Mitsubishi’s Discovery Materials were made available to Rambus’s outside counsel in February 2003, some of those documents were made available to certain of Rambus’s employees, including certain of its inside counsel. Some of these documents were written in Japanese; others had been translated through the efforts of Rambus’s employees, outside counsel and professional translators.

5. Prior to May 21, 2003, certain of Mitsubishi’s Discovery Materials were disclosed and used by Rambus for a purpose other than the purposes of this proceeding. Set forth below is a description of the only such instance known to Rambus or ascertainable by it.

a. In a brief filed on or about April 7, 2003, in connection with an appeal within the European Patent Office (“EPO”) in Case Number: T 0081/03 – 3.5.1, Rambus cited to and attached portions of three documents from Mitsubishi’s Discovery Materials, specifically, MEC 000328-335, MEC 001441, and MEC 001748. In some instances, translations were used. These documents, or their contents, were disclosed to the following persons or entities as the result of the filing of this brief: the EPO’s Technical Board of Appeal 3.5.1; Rambus’s counsel in that proceeding, Jochen Ehlers (Eisenfuhr, Speiser & Partner, Patentanwälte



b. I am informed and believe that the brief Rambus filed in this proceeding and its attachments are available to the public if they choose to access it.

c. The three documents cited in and attached to Rambus's April 7, 2003 brief filed with the EPO's Technical Board of Appeal 3.5.1 were admitted in evidence in this proceeding on May 12, 2003 (Exhibits RX-2203, consisting of pages MEC 000327-335 and which included a partial translation, and RX-2214A, consisting of a translation of MEC 001441) and May 21, 2003 (RX-2214, consisting of MEC 001441, RX-2215, consisting of pages MEC 001747-748, and RX-2215A, consisting of a translation of pages MEC 001747-748).

d. In the instance described above, Rambus used the three documents to illustrate that the written description in Rambus's original application, the '898 application in the United States and the WIPO application in certain other countries, was understood by those who reviewed it, such as the Mitsubishi employees who authored the three documents in question, potentially to have a broad application, including to various features that were then contemplated for inclusion in the SDRAM devices under discussion at JEDEC and at various companies, including Mitsubishi. Rambus also used the three documents to demonstrate that when a person of skill in the art reviewed the '898 application or the WIPO application that person recognized and understood that the inventions disclosed in that application were not limited to use with any particular multiplexed bus.

6. Rambus made no other use of any of Mitsubishi's Discovery Materials, other than for the purposes of this proceeding, prior to May 21, 2003.

7. After May 21, 2003, Rambus and its

3001714) and the document attached to the subpoena at Tab 39 (MEC 403332-334).

These documents were shared with counsel for Infineon and with MEUS as a result of the service of this subpoena. Infineon was represented by Kirkland & Ellis LLP and by McGuire Woods.

9. On May 26, 2004, Magistrate Judge William J. Hibbler of the United States District Court for the Northern District of Illinois granted Rambus's motion to compel Jenner & Block, LLC to produce to Rambus for use in the *Infineon* litigation all of Mitsubishi's Discovery Materials, and use of those materials now is permitted under the terms of the *Infineon* Protective Order. The documents from Mitsubishi's Discovery Materials bearing production numbers MEC 3001714 and MEC 403332-334 are included within the scope of Judge Hibbler's order and can now be used in the *Infineon* litigation under the terms of the *Infineon* Protective Order.

10. Other than as described in paragraphs 5 and 8 above, I am not aware of any use or disclosure by Rambus or its counsel of Mitsubishi's Discovery Materials for a purpose other than the purposes of this proceeding, except to the extent that Rambus has used certain of Mitsubishi's Discovery Materials for purposes other than the purposes of this proceeding, but only after those particular materials had been admitted in evidence in

this proceeding and thereby made a part of the public record in this matter, such as described in paragraph 7 above.

Executed on December 15, 2004, at Los Altos, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

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Robert G. Kramer

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

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In the Matter of )  
 )  
 ) Docket No. 9302  
RAMBUS INCORPORATED, )  
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a corporation. )  

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**CERTIFICATE OF SERVICE**

I, Kenneth A. Bamberger, hereby certify that on December 16, 2004, I caused true and correct copies of the *Statement of Rambus Inc. in Compliance with the Commission's December 6,*



UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

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In the Matter of )  
 )  
RAMBUS INC., ) Docket No. 9302  
a corporation, )  

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**CERTIFICATION**

I, Kenneth A. Bamberger, hereby certify that the electronic copies of *Statement of Rambus Inc. in Compliance with the Commission's December 6, 2004 Order Granting the Motion of Non-Party Mitsubishi Electric Corp. to Enforce Protective Order*, and the attached *Declaration of Robert G. Kramer in Compliance with the Commission's December 6, 2004 Order Granting the Motion of Non-Party Mitsubishi Electric Corp. to Enforce Protective Order*, accompanying this certification are true and correct copies of the paper versions that are being filed with the Secretary of the Commission on December 16, 2004 by other means.

**Kenneth A. Bamberger**  
**December 16, 2004**