

suggested to the jury by any means).¹ The other common purpose of a motion in limine is to

exclude the introduction of other relevant evidence. Cf. FRP 401 (evidence that is not

relevant under the rules of evidence. Cf. FRP 403 (evidence that is relevant but its probative value is

Complaint Counsel moves to prevent Respondent from presenting testimony and

arguments regarding issues that it asserts were fully litigated in *Rambus Inc. v. Infineon*

Technologies AG, 155 F.Supp.2d 668 (E.D. Va. 2001), *aff'd in part, rev'd in part, vacated in part*,

testimony from Respondent on the following issues through this motion in limine, Complaint

B. Complaint Counsel's Motion To Bar Testimony By William Keefauver

Complaint Counsel moves to preclude the report and testimony of William Keefauver.

William Keefauver is a former Counsel and Vice President of Dell

To the extent JEDEC's patent policy statements do not clearly set out its disclosure rules, the most valuable extrinsic evidence for the Court to consider, or as Respondent puts it, "how a reasonable JEDEC member would have understood the terms of JEDEC's patent policy," is testimony from actual JEDEC participants (of which there are several on the parties' final witness lists). Such interpretations are best left to the discretion of JEDEC and its members. This is

members in the instant case. Moreover, Respondent's position in the present motion is undercut

be “designed around” patents held by Respondent. In particular, Mr. Soderman would testify that alternative SDRAM technologies proposed by Complaint Counsel’s expert, Bruce Jacob, were either unfeasible or subject to one of four patents held by Respondent. Mr. Fliesler would testify

claim Respondent was obligated to disclose to JEDEC.

better remedy is rigorous cross-examination by Complaint Counsel, not exclusion. *Sphere Drake Ins. PLC v. Trisko*, 226 F.3d 951, 955 (8th Cir. 2000). It appears that Mr. Soderman's testimony, in effect, is to rebut testimony that Respondent anticipates will come from an expert for Complaint Counsel, Mr. Jacob. As a result, it appears that Mr. Soderman's testimony should be relevant.

~~Similarly, it appears that Mr. Eliezer's testimony is relevant to a defense theory of~~

Respondent that a patent which Complaint Counsel does not contend Respondent had to disclose

~~to IPREC under the IPREC DDRAM standard and the IPREC standard for IPREC~~

Counsel.

In opposition, Respondent argues that Mr. Geilhufe's experience in the integrated circuit manufacturing business is itself a sufficient basis for his cost estimates and that his testimony

is not so inherently unreliable as to be insufficiently reliable to be admissible. As in its

Joint Counsel agrees that such evidence is not relevant and that the Court's Inquiry



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cited by Complaint Counsel directly stand only for the proposition that a plaintiff's own unclean hands do not serve as an estoppel which prevents a plaintiff from pursuing the illegal anti-

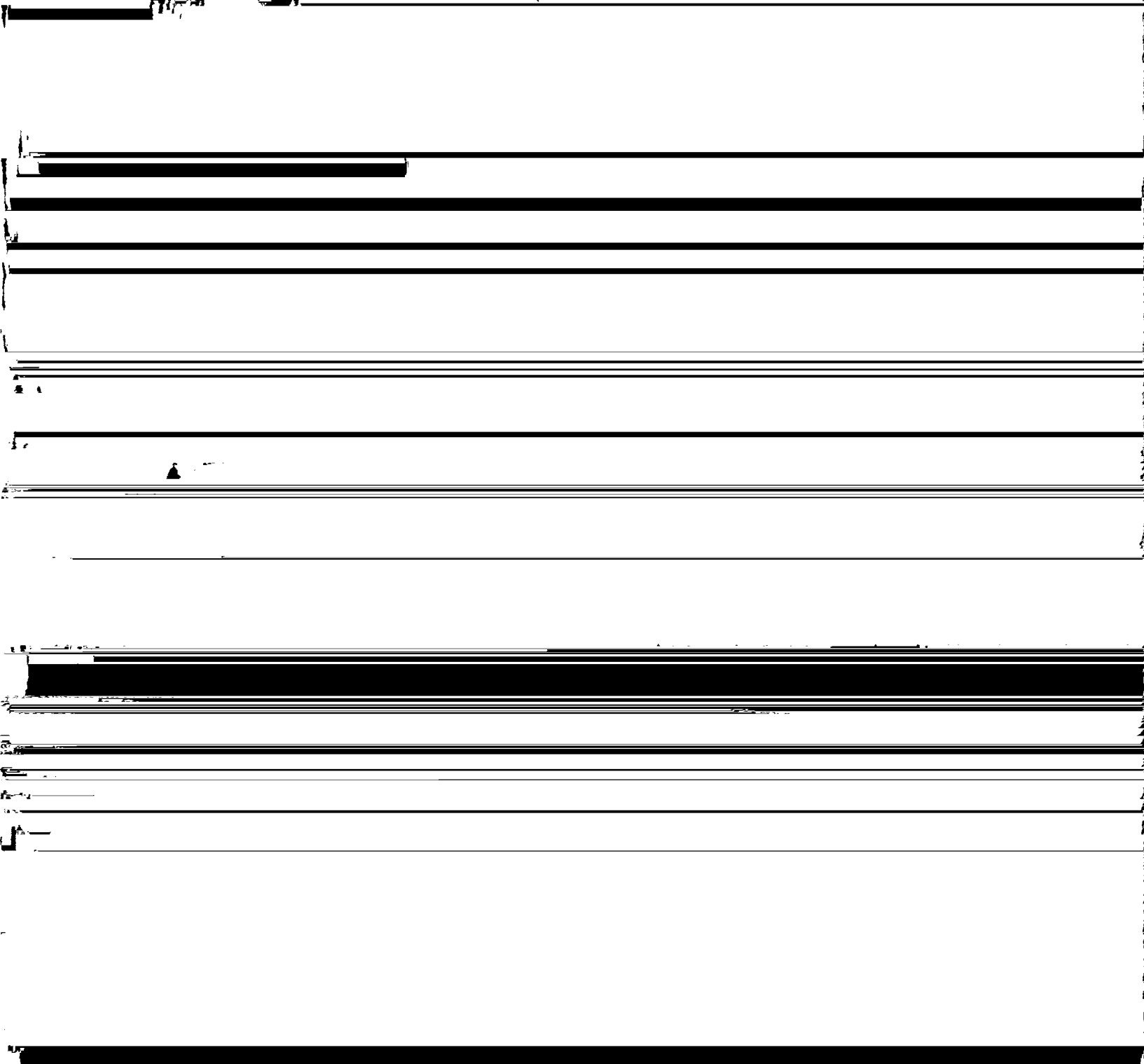
52 (N.D. Ga. 1977) (defendants accused the government itself of having unclean hands by having stood by for thirty years while the defendants engaged in the conduct that the government was then prosecuting).

at 5), causes the Court to conclude that such proposed testimony is plainly irrelevant to the issues in the instant case. The Court's January 15, 2003 Order Granting the U.S. Department of Justice's Motion to Limit Discovery, though decided in the significantly different context of whether Respondent made a sufficient showing to overcome the USDOJ's qualified law enforcement privilege over grand jury materials, strongly suggests that a purported illegal conspiracy by



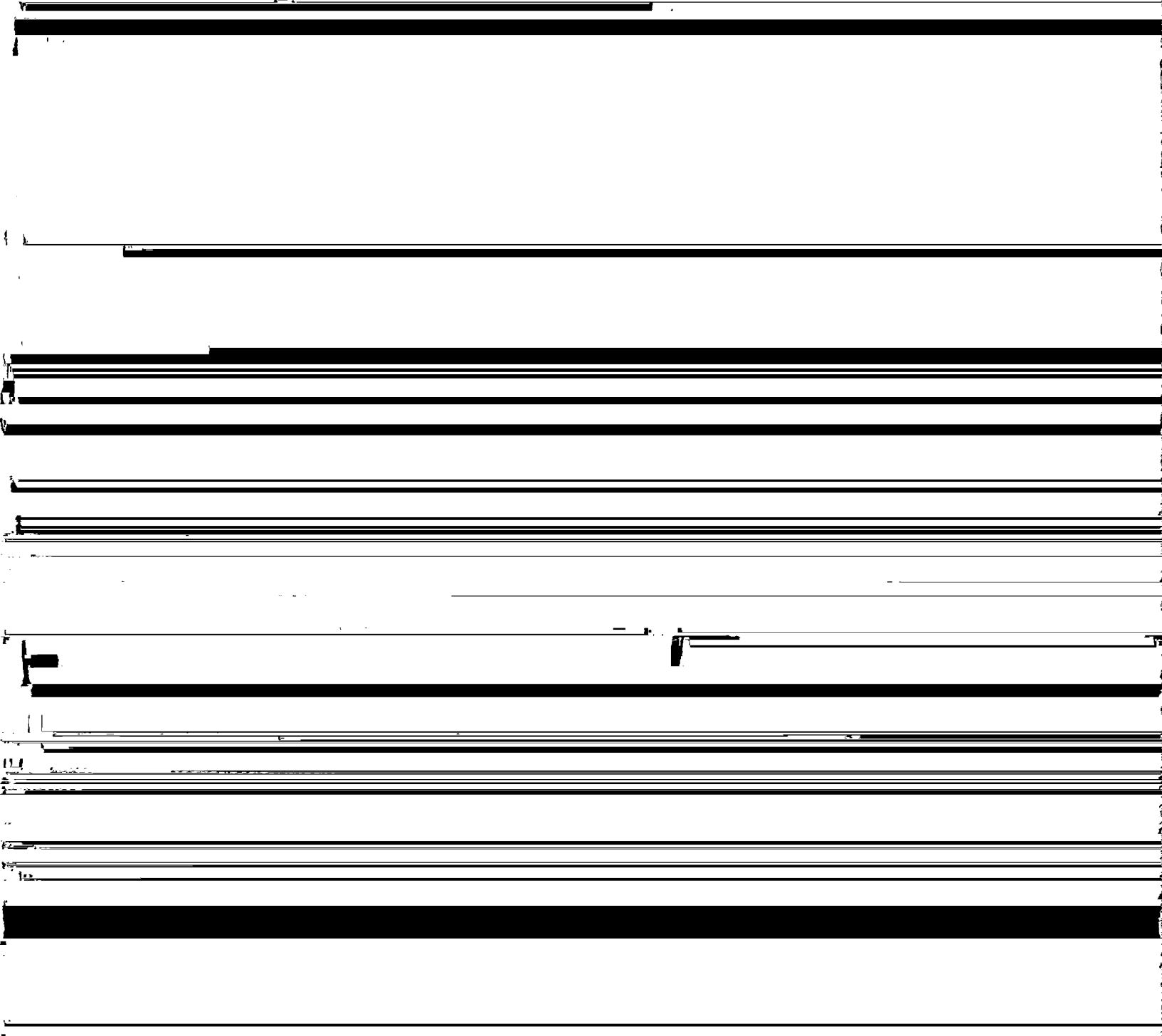
In support of the motion, Complaint Counsel claims that Respondent prohibited Complaint Counsel from taking complete discovery from Mr. Steinberg, Mr. Karp or other representatives of Respondent on these issues, asserting attorney-client privilege. Having,

~~Respondent's Complaint Counsel used the attorney-client privilege to block discovery~~

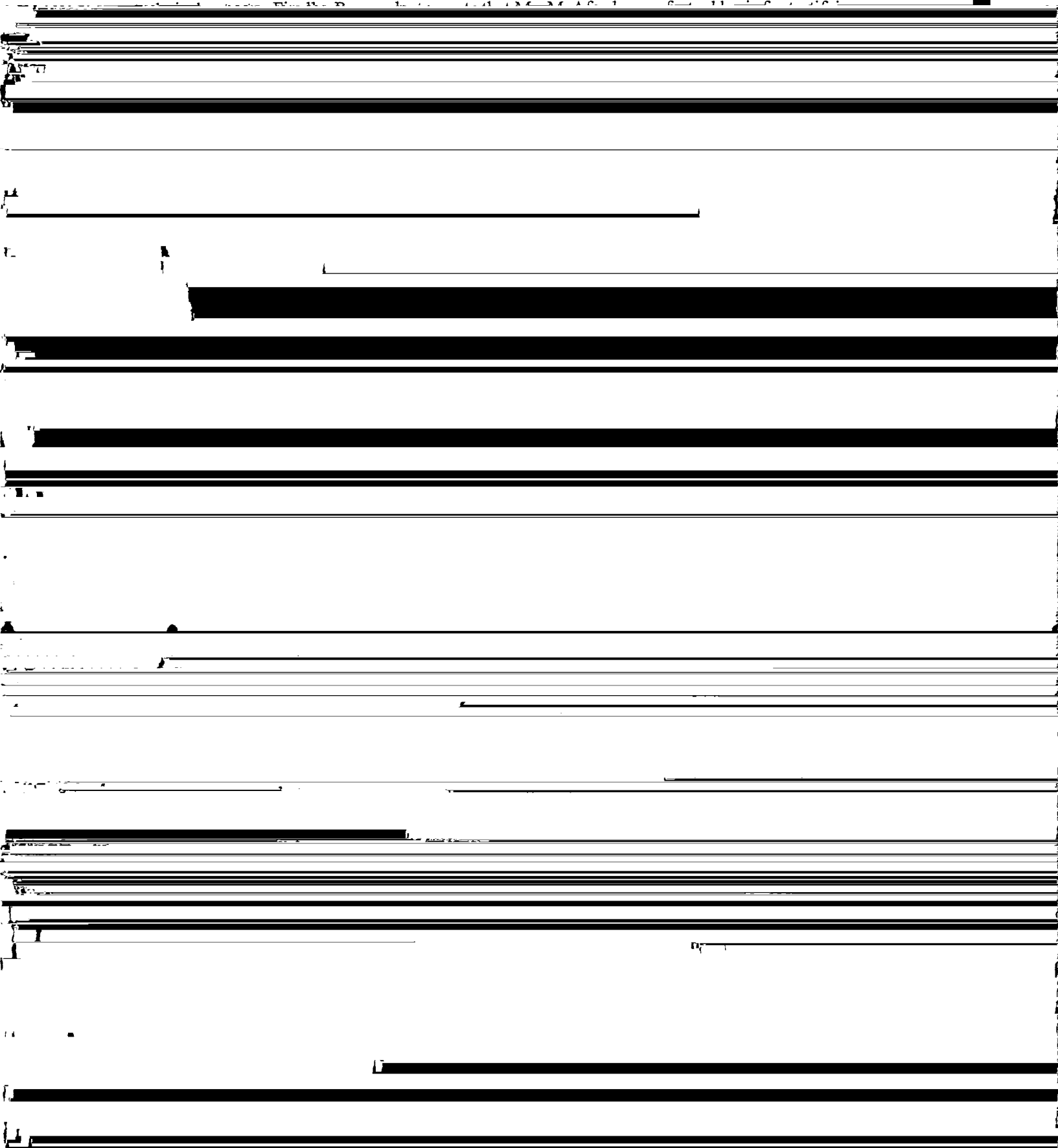


Respondent's attorney-client privilege. The motion in limine therefore, is **DENIED**. The Court, if necessary, on the objection of Complaint Counsel, will revisit this issue at trial following its ruling on the Crime-Fraud Exception Motion and with the fuller context on this issue available at trial.

H. Respondent's Motion To Exclude Testimony By Preston McAfee Regarding Respondent's State Of Mind, JEDEC's Patent Disclosure Policy, The Scope Of Respondent's Patents, And The Cost And Performance Of Alternative



provide him with the expertise to express opinions about the scope of Respondent's highly



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