

reasonably anticipated litigation before the litigation has commenced. *Id.* at 17-18 (“The reason is with a document retention program, what should happen is you’ve got a lot of extraneous material that you generate throughout the course of your business, that you don’t want to end up having to search for constantly. If you’ve got a transaction or some issues that you are aware of that are going to lead to litigation, then you keep it.”).

93. After the presentation by outside counsel Johnson to Rambus’s managers, Vice President Karp implemented the policy by scheduling meetings throughout the company to describe Rambus’s new document retention policy. CX5069 at 33-34. In those meetings, Karp, without Johnson or any other Cooley Godward attorney, presented relevant portions of a presentation he generated from Rambus’s document retention policy – RX-2505 (already admitted as CX-1264); CX5069 at 34. [The presentation was identified in the Karp deposition as Defendant’s Trial Exhibit Number 4134, but was admitted at the unclean hands hearing as DXT-4024. *See* DX0504 at 2.]
94. Rambus’s outside law firm Cooley Godward was never involved in the implementation of the document retention program. CX5076 at 10, 18.
95. After leaving Cooley Godward, outside counsel Johnson went to the law firm Fenwick and West. RX-2523 at 15. Fenwick and West’s only role in the implementation of Rambus’s document retention program was to send a legal assistant over to Rambus to help Rambus organize its patent files. RX-2521 at 19 (“The only activity we – we – as best I can recall, we did the following: one they asked us to send a legal assistant over to help them get organized. We did that. Two, we told them they should put their most critical documents on – in some kind of a database so that they’d be able to access it, ... and ... they wouldn’t lose it.”).
96. Rambus declined outside counsel Johnson’s offer to help implement the document retention program. *Id.* (“We offered to bring over our people to help them go through and execute on their document retention policy. They declined that. That’s it.”).
97. In Vice President Karp’s quarterly IP goals lists, organizing shred days was often one of the tasks described as part of Rambus’s “Licensing/Litigation Readiness” program. *See, e.g.,* CX5027 at 1-2; CX5045.
98. The concepts of document destruction and document retention appear to have been synonymous to Vice President Karp. *Compare* CX5027 (IP Q3’99 Goals – Final 7/1/99 describing the need for a “1999 shredding party at Rambus” but not describing a “document retention compliance event.”) *with* CX5028 (IP Q3’99 Goals – Final 7/1/99 describing the need for a “document retention compliance event” but no mention of a “1999 shredding party at Rambus”) *and* CX5029 (same). *See also* CX5045 (IP Q3’99 Goals – First Cut 6/27/99 where organizing a “1999 shredding party at Rambus” is an