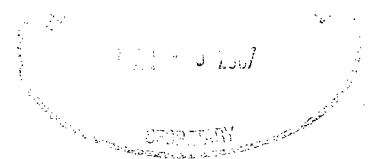


UNITED STATES OF AMERICA

BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Deborah Platt Majoras, Chairman

Jon Leibowitz
William E. Kovacic
J. Thomas Rosch



In the Matter of
RAMBUS INC.,
a corporation.

Docket No. 9302

MOTION OF RESPONDENT RAMBUS INC. FOR LEAVE TO FILE RESPONSE TO

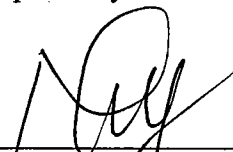
FILE OF MICRO-SUBSIDIARY MICRO-TECHNOLOGY CO., INC. SAMSUNG

Accordingly, if the Commission grants the Amici's motion for leave to file their Amicus

Brief, Demby submits that the Commission should also accept the attached Response to the

Amicus Brief.

Respectfully submitted,



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**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: Deborah Platt Majoras, Chairman
Pamela Jones Harbour
Jon Leibowitz
William E. Kovacic
J. Thomas Rosch

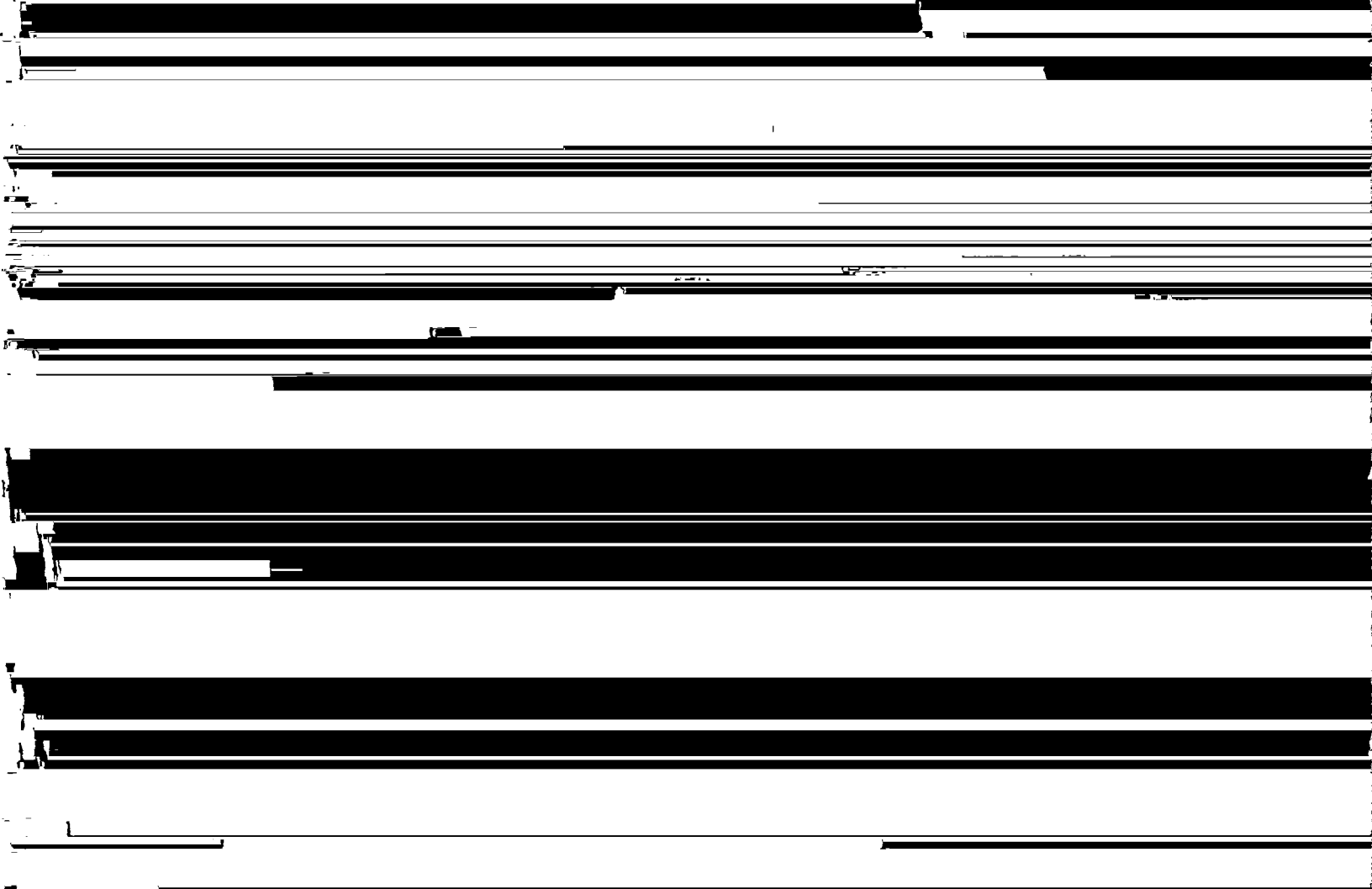
In the Matter of

RAMBUS INC.,

a corporation.

Docket No. 9302

**[PROPOSED] ORDER GRANTING LEAVE TO RESPONDENT
RAMBUS INC. TO FILE RESPONSE TO BRIEF OF AMICI CURIAE**



UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Deborah Platt Majoras, Chairman
Pamela Jones Harbour
Jon Leibowitz
William E. Kovacic
J. Thomas Rosch

In the Matter of

RAMBUS INC.,

a corporation.

Docket No. 9302

RESPONSE OF RAMBUS INC.
TO BRIEF OF *AMICI CURIAE* MICRON TECHNOLOGY, INC.,
SAMSUNG ELECTRONICS CORPORATION, LTD., AND HYNIX
SEMICONDUCTOR, INC.

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INTRODUCTION

Respondent Rambus Inc. (“Rambus”) respectfully submits this Response to the Brief of Amici Curiae Micron Technology, Inc., Samsung Electronics Corporation, Ltd., and Hynix Semiconductor, Inc. in Opposition to Rambus’s Motion to Reconsider the Commission’s Remedy Order in the Matter of Rambus Inc. (“Amicus Brief”). The Amicus Brief is devoted

~~to demonstrating that the Commission should prohibit Rambus from seeking~~

royalties or damages above Maximum Allowable Royalty (MAR) rates even with respect to use of Rambus’s technology (whether licensed or not) occurring *before* the effective date of the Commission’s Order. Such a result would contradict the plain language of the Commission’s Order, exceed the Commission’s remedial authority, and find no support in sound policy or the

Complaint Counsel's Opposition to Rambus's Motion to Stay 18 (filed July 15, 2002)

(acknowledging that the "Commission seeks only prospective relief" in this matter). For that reason, the Commission's Order limits Rambus's ability to obtain royalties above MAR rates only with respect to "manufacture, sale, or use" of infringing products "after the date this Order

cease efforts in which the company, "*for periods after this Order becomes final*, is seeking relief that would result in payments" in excess of MAR rates). Further, Paragraph I.J of the Order sets forth the "Maximum Allowable Royalty Rates" for SDRAM and DDR SDRAM, starting with

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

terminating the effects of unlawful conduct” (Remedy Op. 4).³ Nor do the Commission’s consent orders in *In re Union Oil Co.*, No. 9305, 2005 WL 2003365 (F.T.C. Aug. 2, 2005), and *In re Dell Computer Corp.*, 121 F.T.C. 616 (1996), bolster amici’s claims. See Amicus Br. 13-14. Those orders do not on their face bar the respondents from seeking royalties or damages

can provide no precedent for the approach that amici urge upon the Commission today. Rambus

research and development efforts. Reply of Respondent Rambus Inc. in Support of Motion for

Notwithstanding the substantial financial impact that the Order will have on Rambus, amici, like Complaint Counsel, erroneously suggest that the Order will have “virtually no market

impact” because the market has already transitioned to the DDR2 SDRAM standard. Amicus

Brief 16. But the Commission found no violation with respect to DDR2 SDRAM, so there is no

basis to complain that the remedy does not address it. In any event, seventy percent or more of

IV. AMICI SEEK A WINDFALL FOR COMPANIES THAT PREVIOUSLY INFRINGED RAMBUS'S PATENTS.

The retrospective remedy *amici* advocate would confer upon them an enormous private benefit. And it would send the problematic message to manufacturers in the future that they

should respect the license from patents and should instead be given a license. It is

amici's proposal, manufacturers who previously paid license fees at above MAD rates would not

Commission's Order, amici do not even address any of these factors. As a result, their opposition to Rambus's request for a stay should be disregarded.

CONCLUSION

Reconsideration and issue an amended order clarifying the remedy as proposed in the Petition.

Respectfully submitted,



Gregory P. Stone
Steven M. Perry