

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of

RAMBUS INC.,

a corporation.

Docket No. 9302

RESPONDENT RAMBUS INC.'S MOTION FOR SUMMARY DECISION

Respondent Rambus Inc. (“Rambus”) respectfully moves for summary decision in this action pursuant to Rule of Practice 3.24. For the reasons set forth in the accompanying memorandum, this motion should be granted for three separate and independent reasons.

First, the undisputed evidence demonstrates that the various manuals and policy documents that purported to define JEDEC’s patent disclosure policy did not set forth a disclosure duty with sufficient clarity to form the basis of antitrust liability. Second, Complaint Counsel cannot meet their burden of proving that JEDEC or its members relied in any way on Rambus’s “silence” at JEDEC meetings in adopting the SDRAM and DDR SDRAM standards at issue here. Because proof of both clear disclosure standards and reliance are essential elements of the theory of liability alleged in the Complaint, summary decision for Rambus should be granted.

Finally, Rambus could not have breached any purported duty of disclosure with respect to the DDR SDRAM standard because no such duty arose during Rambus’s tenure

as a JEDEC member. The absence of any such breach with respect to the DDR SDRAM standard eliminates any basis for a finding of anticompetitive conduct in three of the five technology markets alleged in the Complaint, and the Court should therefore grant at least partial summary decision for Rambus with respect to these markets.

DATED: February ____, 2003 Respectfully submitted,

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PROPOSED ORDER

Having considered Respondent Rambus Inc.'s Memorandum in Support of its Motion for Summary Decision and the Separate Statement of Material Facts as to Which There is No Genuine Issue,

IT IS HEREBY ORDERED that Rambus's Motion for Summary Decision is granted.

James P. Timony
Chief Administrative Law Judge

Date: _____