

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

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

MICRON TECHNOLOGY, INC'S
REPLY TO RESPONDENT'S OPPOSITION
TO MOTION BY MICRON TECHNOLOGY, INC. FOR
IN CAMERA TREATMENT OF CERTAIN DOCUMENTS

Micron Technology, Inc (“Micron”), has previously requested that this court grant in camera treatment pursuant to 16 CFR 3.45(b) for a number of documents. See Micron Technology Inc.’s Motion for In Camera Treatment (“Micron’s Motion”). Complaint Counsel have raised no objection to in camera treatment of any of the documents for which Micron has requested such treatment. Respondent Rambus Inc. (“Rambus”) has objected to in camera treatment for only one of the identified documents, MR0082227-9, attached as Exhibit A to Rambus’s Memorandum in Opposition to Micron’s Motion. Micron has sound reasons for requesting in camera treatment of this document, and Rambus has not articulated any harm to it that would arise from a grant of in camera treatment.

In camera treatment is warranted for the document in question because it contains confidential information communicated to Micron by a customer. In particular, this

document contains confidential information from Intel and information communicated in confidence by an identified Intel employee.

As stated in Micron's Motion, public disclosure of this information would cause Micron serious competitive injury for two reasons. First, it is important for Micron to be able to communicate with its customers in trust and confidence as part of a collaborative relationship between them. Intel and other customers would be reluctant to share confidential information with Micron in the future if they believed that such information would be shared publicly. Contrary to Rambus's assertions, Micron's Motion specifically noted that information contained in this document was confidential to Intel. See Micron's Motion at 10.¹

Second, the individual at Intel who shared this information is identified by name in the document. This individual and others similarly situated will be reluctant to share confidential information with Micron in the future if they fear that Micron will disclose publicly their identities and what has been communicated, which could damage their relations with other industry members or even their employers. As Micron previously noted, one portion of the document in question even bears the notation "information in this section highly sensitive. Please be careful with it." See MR0082228 and MR0082160.

Finally, Rambus nowhere argues that it would suffer any harm or prejudice from in camera treatment of this document. While Micron does not agree with Rambus that

¹ The document MR0082159-160, cited at page 10 of Micron's Motion, is an email chain that includes the same email containing Intel confidential information as the document identified by Rambus. The Bates numbers for both documents are listed in the attachment to Micron's Motion under Group E, and in camera treatment was requested for both of documents.

the document is “highly significant,” if in camera treatment is granted, Rambus will still remain free to use the document for purposes of the litigation in connection with examination of witnesses and in making its arguments.

Especially in light of the favorable consideration afforded in camera treatment requests by third parties in, for example, Kaiser Aluminum & Chemical Corp., 103 F.T.C. 500 (1984), and H.P. Hood & Sons, Inc., 58 F.T.C. 1184 (1961), Micron respectfully requests that in camera treatment of this document be granted.

DATED: April 25, 2003

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