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FEDERAL TRADE COMMISSION  
I N D E X (PUBLIC RECORD)

WITNESS:   DIRECT       CROSS       REDIRECT     RECROSS  
Lee           6585

EXHIBITS                   FOR ID       IN EVID     WITHDRAWN  
CX  
None

RX  
None

JX  
None

DX  
Number 117                   6662



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## P R O C E E D I N G S

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3 JUDGE McGUIRE: Good morning, Counsel.

4 ALL COUNSEL: Good morning, Your Honor.

5 JUDGE McGUIRE: This hearing is now in order.

6 Any items that should come to the Court's  
7 attention before we begin today?

8 MR. STONE: Yes, Your Honor, I do have one  
9 issue, if I might.

10 This arises in connection with the private  
11 action involving Hynix in District Court out in  
12 California, and they have asked us in connection with  
13 that case to produce exhibits which have been admitted  
14 in camera and testimony which has come in in camera  
15 here in this proceeding.

16 As to the exhibits, we believe that since all  
17 the exhibits that were admitted in camera, we have them  
18 pursuant to the terms of the protective order, that so  
19 long as we comply with the protective order and give  
20 notice to third parties, that we can go ahead and  
21 provide them those exhibits and plan to do so unless  
22 there's some objection from complaint counsel or if  
23 Your Honor has a concern that the in camera order might  
24 override that. I don't believe it does.

25 As to the testimony, however, the only order

1 that governs the testimony is Your Honor's in camera  
2 order, and as we understand that order and the FTC's  
3 general regulations, there's no provision for us  
4 providing in camera testimony to third parties, and we  
5 think some provision needs to be made for that. We  
6 thought perhaps Hynix might propose an amendment to  
7 that in camera order that would then permit us to  
8 provide access to them after I think they perhaps  
9 should give notice to the third parties.

10 The third parties whose testimony was involved  
11 was testimony from AMD, from Micron, from ATI and from  
12 Intel. So, those third parties I think need to have  
13 notice as to whether they would object to the  
14 information being provided to Hynix under whatever  
15 terms Hynix would propose for the in camera. We don't  
16 really have any -- we don't plan to object ultimately  
17 to this on the merits of providing them the  
18 testimony --

19 JUDGE McGUIRE: You would just like to  
20 conform --

21 MR. STONE: -- but A, I am concerned that you  
22 have an order in place that we can't, and I am not  
23 going to provide it inconsistent with that order; and  
24 B, I think the third parties may have an interest in  
25 whether Hynix sees it.

1 JUDGE McGUIRE: Do you have any comment, Mr.  
2 Oliver?

3 MR. OLIVER: Your Honor, we have not had an  
4 opportunity to consider this, if we could have perhaps  
5 a day to consider this.

6 JUDGE McGUIRE: Yes, that will be fine.

7 Yeah, I think in terms of the -- we are talking  
8 about the August 2002 protective order?

9 MR. STONE: Yes, that protective order governs  
10 the documents.

11 JUDGE McGUIRE: Yes, but -- I know, right.

12 MR. STONE: The in camera testimony I believe  
13 is governed by your in camera order and the FTC's  
14 regulations.

15 JUDGE McGUIRE: Yes, which you are saying does  
16 not cover this circumstance.

17 MR. STONE: That's my belief, that it does not.

18 JUDGE McGUIRE: It would be my suggestion that  
19 Hynix offer the Court a proposed supplement to that  
20 order, and then the parties and any other third parties  
21 could then, you know, be free to comment on that as  
22 well, and then I could issue an order either way and  
23 then determine how this ought to be handled.

24 MR. STONE: That's fine with us, Your Honor,  
25 and I'll talk to Hynix's counsel and complaint counsel,

1 and maybe we can all agree to the format.

2 JUDGE McGUIRE: Maybe you can come up with  
3 something that will expedite this and then give some  
4 guidance on this issue to Hynix.

5 MR. STONE: That would be fine.

6 JUDGE McGUIRE: But I want to comport with  
7 whatever outstanding orders I have and whatever is the  
8 current FTC rules on this area, and if we can all come  
9 to terms on that, then that will be fine. I have no  
10 problem with that.

11 MR. STONE: Thank you, Your Honor.

12 JUDGE McGUIRE: Yes, sir.

13 MR. NISSLY: Pardon my interruption, Your  
14 Honor. Ken Nissly, I represent Hynix, and we will be  
15 happy to talk to Mr. Stone and Mr. Oliver to get this  
16 issue resolved.

17 JUDGE McGUIRE: Okay, good.

18 At this time, complaint counsel may call its  
19 next witness.

20 MR. OLIVER: Thank you, Your Honor. Complaint  
21 counsel calls Mr. Terry Lee.

22 JUDGE McGUIRE: Mr. Lee, would you please  
23 approach the Bench and you'll be sworn in by the court  
24 reporter.  
25 Whereupon--