

1 FEDERAL TRADE COMMISSION
2 I N D E X (PUBLIC RECORD)
3
4 WITNESS: DIRECT CROSS REDIRECT RECROSS
5 T. Lee 6822 IC 7050
6
7 EXHIBITS FOR ID IN EVID
8 CX
9 Number 371 6821
10 Number 415 6819
11 Number 2718 6821
12 Number 2769 6822
13
14 RX
15 Number 406 6821
16 Number 1308 6820
17 Number 1472 6820
18 Number 1479 6819
19 Number 1701 6820
20
21 DX
22 Number 118 6903
23 Number 119 6984
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of:)
Rambus, Inc.) Docket No. 9302
-----)

Tuesday, June 24, 2003
9:30 a.m.

TRIAL VOLUME 34
PART 1
PUBLIC RECORD

BEFORE THE HONORABLE STEPHEN J. MCGUIRE
Chief Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C.

Reported by: Josett F. Hall, RMR-CRR

For The Record, Inc.
Waldorf, Maryland
(301) 870-8025

1 APPEARANCES:

2

3 ON BEHALF OF THE FEDERAL TRADE COMMISSION:

4 M. SEAN ROYALL, Attorney

5 GEOFFREY OLIVER, Attorney

6 JOHN C. WEBER, Attorney

7 MICHAEL FRANCHAK, Attorney

8 Federal Trade Commission

9 601 New Jersey Avenue, N.W.

10 Washington, D.C. 20580-0000

11 (202) 326-3663

12

13 ON BEHALF OF THE RESPONDENT:

14 GREGORY P. STONE, Attorney

15 STEVEN M. PERRY, Attorney

16 PETER A. DETRE, Attorney

17 SEAN GATES, Attorney

18 Munger, Tolles & Olson LLP

19 355 South Grand Avenue, 35th Floor

20 Los Angeles, California 90071-1560

21 (213) 683-9255

22

23

24

25

1 APPEARANCES:

2

3 ON BEHALF OF THE RESPONDENT:

4 A. DOUGLAS MELAMED, Attorney

5 Wilmer, Cutler & Pickering

6 2445 M Street, N.W.

7 Washington, D.C. 20037-1420

8 (202) 663-6090

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

- - - - -

1
2
3 JUDGE McGUIRE: This hearing is now in order.
4 Any housekeeping items this morning?

5 MR. PERRY: Yes, Your Honor.

6 Before we begin with Mr. Lee, we have a few
7 exhibits to move into evidence. I believe both sides
8 do.

9 Mr. Oliver and I have been talking about the
10 exhibits that we used in the Jacob testimony and we're
11 now prepared to offer into evidence six exhibits if I
12 could.

13 JUDGE McGUIRE: Go ahead.

14 MR. PERRY: The first is CX-415.

15 MR. OLIVER: No objection, Your Honor.

16 JUDGE McGUIRE: Entered.

17 (CX Exhibit Number 415 was admitted into
18 evidence.)

19 MR. PERRY: RX-1479.

20 MR. OLIVER: No objection, Your Honor.

21 JUDGE McGUIRE: Entered.

22 (RX Exhibit Number 1479 was admitted into
23 evidence.)

24 MR. PERRY: RX-1308?

25 MR. OLIVER: No objection, Your Honor.

1 JUDGE McGUIRE: Entered.

2 (RX Exhibit Number 1308 was admitted into
3 evidence.)

4 MR. PERRY: RX-1701.

5 MR. OLIVER: No objection, Your Honor.

6 JUDGE McGUIRE: Entered.

7 (RX Exhibit Number 1701 was admitted into
8 evidence.)

9 MR. PERRY: RX-1472.

10 MR. OLIVER: No objection, Your Honor.

11 JUDGE McGUIRE: Entered.

12 (RX Exhibit Number 1472 was admitted into
13 evidence.)

14 MR. PERRY: And RX-406.

15 MR. OLIVER: Your Honor, this document is
16 something in Japanese and we haven't heard from any
17 witness who has ever seen this document before.
18 Pursuant to our understanding with the other side, we
19 will not object to its being admitted into evidence,
20 but I would like to note for the record we don't think
21 it's entitled to any weight.

22 JUDGE McGUIRE: So noted.

23 MR. PERRY: There's also a translation
24 attached.

25 JUDGE McGUIRE: That's good to know.

1 (RX Exhibit Number 406 was admitted into
2 evidence.)

3 JUDGE McGUIRE: Mr. Oliver, anything you wanted
4 to add at this point?

5 MR. OLIVER: Yes, Your Honor.

6 I wanted to move three exhibits into evidence
7 that were used in the proceedings yesterday.

8 First is a July 28, 1997 e-mail from
9 Terry Walther to certain individuals at Micron,
10 including Terry Lee, attaching a presentation from
11 Texas Instruments. This would be CX-371.

12 MR. PERRY: No objection.

13 JUDGE McGUIRE: Entered.

14 (CX Exhibit Number 371 was admitted into
15 evidence.)

16 MR. OLIVER: Second is CX-2718. This is a
17 document, Micron DRAM update, dated March 1998.

18 MR. PERRY: No objection.

19 JUDGE McGUIRE: Entered.

20 (CX Exhibit Number 2718 was admitted into
21 evidence.)

22 MR. OLIVER: Third is CX-2769. This is a
23 document entitled Consideration for DDR Clocking
24 Scheme and Data Capture with the date September 13,
25 2000.

1 MR. PERRY: No objection.

2 JUDGE McGUIRE: Entered.

3 (CX Exhibit Number 2769 was admitted into
4 evidence.)

5 JUDGE McGUIRE: Okay. Mr. Lee, would you
6 please again take the stand. I caution you, you're
7 still under oath from your testimony previously.

8 At this time we'll begin the
9 cross-examination.

10 - - - - -

11 Whereupon --

12 TERRY R. LEE

13 a witness, called for examination, having been
14 previously duly sworn, was examined and testified as
15 follows:

16 CROSS-EXAMINATION

17 BY MR. PERRY:

18 Q. Thank you, Your Honor.

19 Mr. Lee, good morning.

20 A. Good morning.

21 Q. I have had some folks arrange the exhibits that
22 we used yesterday in chronological order. We may be
23 referring to some of them from time to time, and so I
24 just wanted to let you know those were there in front
25 of you. If we get too much paper in front of you, just

1 try to work around them and rearrange them.

2 I think you told us yesterday that your current
3 title is advanced technology strategic marketing, but
4 I'm not sure I wrote it down correctly.

5 Can you tell us what your current title is at
6 Micron?

7 A. Yes. It's executive director of advanced
8 technology and strategic marketing.

9 Q. Is that technology singular or plural?

10 A. Singular.

11 Q. And to whom do you currently report?

12 A. To Bob Donnelly.

13 Q. Bob Donnelly?

14 A. Correct.

15 Q. And what's his current title?

16 A. He's the vice president of the consumer and
17 computing group.

18 Q. Is that in the marketing organization of
19 Micron?

20 A. The consumer and computing group?

21 Q. Yes.

22 A. It's a large group. It encompasses more than
23 marketing.

24 Q. And we heard some yesterday about a
25 Mr. Jeff Mailloux. What is his current title?

1 A. I'm not sure what his current title is at this
2 time.

3 Q. Have you ever reported directly to
4 Mr. Mailloux?

5 A. Yes.

6 Q. And you told us yesterday about your chronology
7 at Micron.

8 During what time period did you report directly
9 to Mr. Mailloux?

10 A. There was probably a break. When I was in the
11 design group for a while, he was the business unit
12 manager, and I probably reported to him for about a
13 year. It might have been around the 1991 time frame.
14 And then there was a year or two where I did not report
15 to him when I was in marketing, and then he came over
16 to marketing and I reported to him at that point in
17 time.

18 So my estimate is I've reported to him from
19 1993 to maybe 2001.

20 Q. Okay. And you told us yesterday that today you
21 have some marketing-related responsibilities. I think
22 you talked about outbound marketing and some other kind
23 of marketing. What was the other kind?

24 A. Correct. The strategic marketing group has
25 segment marketing and outbound marketing in addition to

1 product definition, applications engineering.

2 Q. So are you currently in the marketing
3 organization at Micron?

4 A. You could call it that.

5 Q. I want to go back to the fall of 1995. Do you
6 have that time period in mind?

7 A. Yes.

8 Q. And you reported to Mr. Mailloux at the time?

9 A. That's correct.

10 Q. What was your title?

11 A. I'm unclear what the title was. It was
12 probably strategic applications engineer.

13 Q. And that was in the marketing organization?

14 A. Correct.

15 Q. What were your duties and responsibilities in
16 that position?

17 A. Sure. At that position I was responsible for
18 product definition for new products.

19 Q. Did you have any other responsibilities in that
20 time period?

21 A. It was primarily that.

22 Q. One of the things you talked about yesterday
23 was a meeting between Rambus and Micron that occurred
24 you said in late 1995. Do you remember that?

25 A. Correct.

1 Q. You were at that meeting?

2 A. Yes.

3 Q. And in advance of that meeting you did some
4 research; correct?

5 A. Yes.

6 Q. You looked at the Rambus Web site for technical
7 information; correct?

8 A. That's correct.

9 Q. Did you look at the Rambus Web site for any
10 other kind of information?

11 A. For?

12 Q. In connection with that meeting?

13 A. What other kind of information are you
14 referring to?

15 Q. Did you look at the Rambus Web site for any
16 information about their history as a company or their
17 business model or their corporate management or their
18 investors, anything, other than technical?

19 A. I don't recall. My focus would have been
20 technical, though.

21 Q. Was anyone else tasked, as far as you know, was
22 anyone else tasked in advance of that meeting with
23 Rambus to try to develop information with respect to
24 Rambus' corporate management, business model, history,
25 anything like that?

1 A. I don't recall.

2 Q. And you tried to understand the Rambus
3 technology in advance of that meeting; right?

4 A. That's correct.

5 Q. And at Mr. Mailloux's request you read some
6 Rambus abstracts, some abstracts of Rambus patents?

7 A. Correct.

8 Q. What's an abstract, just briefly?

9 A. An abstract is a brief description of what the
10 patent is about.

11 Q. And was that available through a Web site of
12 some kind?

13 A. It was distributed to myself through a memo
14 from Jeff Mailloux.

15 Q. And after looking at the abstracts, you asked
16 for one or more patents to be sent to you to read the
17 whole patent; is that right?

18 A. Yes.

19 Q. Do you remember how many patents you asked
20 for?

21 A. Not exactly. I think it was just a couple.

22 Q. And you know one of them was the '703 patent
23 you talked about yesterday; right?

24 A. I recall that.

25 Q. And in anticipation of the meeting with Rambus,

1 you prepared a memorandum to Mr. Mailloux describing
2 your conclusions?

3 A. No.

4 Q. Was that your ordinary practice at the time, to
5 prepare a memorandum when you had a research project
6 like this?

7 A. No.

8 Q. Did you have an oral presentation to
9 Mr. Mailloux about what you learned, in advance of the
10 meeting?

11 A. I believe we had a discussion.

12 Q. Did you have PowerPoints?

13 A. No.

14 Q. So you had nothing in writing at any time that
15 showed what your research had shown; is that right?

16 A. No.

17 Q. Okay. Is it correct -- well, let me ask it
18 this way.

19 Did you ever at any point in time prepare
20 anything in writing to summarize your research
21 regarding Rambus technology in advance of that
22 meeting?

23 A. Not that I recall.

24 Q. Okay. Well, let's look at that memo from
25 Mr. Mailloux that you mentioned. It's RX-629, and it's

1 in front of you, dated November 7, 1995. It should be
2 early in the stack.

3 We looked at this yesterday; right?

4 A. Yes.

5 Q. And this is a memo to a distribution list from
6 Jeff Mailloux dated November 7, 1995; correct?

7 A. Yes.

8 Q. And the re line says "Rambus, Inc. patents"; is
9 that correct?

10 A. Yes.

11 Q. And there are -- it appears that there are
12 eight names listed and one of them is blotted out by
13 some highlighting I believe.

14 Do you believe your name to be the one that's
15 blotted out?

16 A. Yes.

17 Q. Have you ever seen a legible copy of this since
18 1995?

19 A. I think early in the deposition process I saw a
20 more legible copy.

21 Q. Now, the memo says: "Attached are abstracts
22 for the patents that have been granted to Rambus, Inc.
23 so far. Please look them over and send me any feedback
24 you might have."

25 Do you see that?

1 A. Yes.

2 Q. And then it says, "We can get copies of the
3 full patent for any that are of particular interest";
4 right?

5 A. Yes.

6 Q. And after reading the abstract for the
7 '703 patent, you asked for a copy of the full patent;
8 correct?

9 A. Yes.

10 Q. And that was CX-1460 that's in front of you;
11 right, the '703 patent? I believe it's probably the
12 first document on the pile.

13 A. Yes.

14 Q. And you read that patent; correct?

15 A. Yeah, I reviewed parts of that patent.

16 Q. Can you tell us now which parts you didn't
17 review?

18 A. Not specifically.

19 Q. Okay. And Mr. Mailloux had requested, if
20 you'll look back at his memo, November 7, 1995, he had
21 said, "Please consider both the quality (is there prior
22 art?) and the breadth (apply to more than just Rambus?)
23 of the patents."

24 Do you see that?

25 A. Yes.

1 Q. Well, let's take that in two parts. Let's talk
2 about the first part.

3 It says please consider the quality of the
4 patents and it says, "Is there prior art?" Do you see
5 that?

6 A. Yes.

7 Q. And did you reach any conclusions in reviewing
8 any Rambus patent abstracts or patents with respect to
9 whether or not there might be prior art to some of what
10 you saw in those patents or patent abstracts?

11 A. I came to some conclusions as to whether this
12 stuff was familiar or seemed new to me.

13 Q. And tell us what your conclusions were in that
14 regard.

15 A. There were a couple patents that seemed like
16 things -- the sort of things I've seen before. There
17 were a couple patents that didn't seem to be very
18 useful.

19 Q. What were some of the things that you saw that
20 you thought you had seen before?

21 A. There were a couple patents that looked
22 familiar to things I've seen in industry before. One
23 that I remember specifically was they were using an
24 external refresh pin to control refresh in DRAMs.

25 Q. And you thought that was something that had

1 been known to the art, as it were, before Rambus came
2 along?

3 A. I certainly thought the use of an external pin
4 for reset had been done before.

5 Q. And when you say "done before," is that before
6 the priority date that you saw in the '703 patent?

7 A. It was before the date that I saw in the
8 patent. And we at Micron had done stuff with use of an
9 external pin and we'd seen other things with external
10 refresh pins, so in my opinion that one didn't sound
11 that novel.

12 Q. When you say before the date you saw in the
13 patent, do you mean the date that the patent issued or
14 what you understood to be the priority date claimed in
15 the patent?

16 A. It was from the date that was listed on the
17 abstract.

18 Q. And was that what you understood to be a
19 priority date?

20 MR. OLIVER: Objection, Your Honor. There's no
21 foundation as to whether this witness understands what
22 a priority date is.

23 JUDGE McGUIRE: Sustained.

24 BY MR. PERRY:

25 Q. You hold many patents, don't you?

1 A. Yes.

2 Q. You're a named inventor on them?

3 A. Correct.

4 Q. Do you understand that "priority date" means
5 the claimed date of invention in the patent
6 application?

7 A. Yes.

8 Q. All right. Well, when you were looking at
9 these abstracts and you saw a date, did you understand
10 that to be the priority date or the issue date?

11 A. I understood that the date there was the -- I
12 believe it was the issue date, but I have to review the
13 abstract to confirm that.

14 Q. Did you think that when Mr. Mailloux was asking
15 you to consider the quality of the Rambus patents and
16 whether there was prior art that he was wondering
17 whether or not there had been people using the
18 technology described in the patent before the priority
19 date or the issue date?

20 A. My understanding of what Jeff wanted to know
21 was whether this seemed like new patents and things
22 that would be useful, that would be useful for us in
23 other products.

24 Q. Did you have an understanding from your own
25 experience at the time that "prior art" meant

1 inventions prior to the claimed priority date?

2 A. Are you asking me what my understanding of the
3 legal term "prior art" was at that time?

4 Q. No.

5 When you saw this question in this memo, is
6 there prior art, did you understand Mr. Mailloux to be
7 asking for the uses or inventions that would invalidate
8 the patent because they would come before the claimed
9 priority date in the patent?

10 A. My interpretation of what Jeff was asking for
11 was whether there was -- these were new ideas or
12 whether they're things we've seen before or whether
13 they were novel and helpful.

14 Q. So when you were doing this research in
15 response to this memo, you weren't looking at the
16 question of whether or not there was any use or
17 disclosure of the invention claimed in the patents
18 before the priority date set out in the patents; is
19 that right?

20 A. If I understood the question -- I guess maybe
21 you can repeat that for me.

22 MR. PERRY: Could you read it back, please.

23 (The record was read as follows:)

24 "QUESTION: So when you were doing this
25 research in response to this memo, you weren't looking

1 at the question of whether or not there was any use or
2 disclosure of the invention claimed in the patents
3 before the priority date set out in the patents; is
4 that right?"

5 THE WITNESS: Yeah, I did no research to
6 compare those dates with specific patents of other
7 dates.

8 BY MR. PERRY:

9 Q. And did you report any conclusions to
10 Mr. Mailloux in response to his question about prior
11 art?

12 A. Yes.

13 Q. And you did that orally?

14 A. Yes.

15 Q. Have you ever seen any of those conclusions set
16 down in writing?

17 A. Not that I recall.

18 Q. Who was present when you did this orally?

19 A. Kevin Ryan and I discussed -- he had half of
20 the abstracts, I had the other half, and we discussed
21 what we saw and we shared those conclusions with Jeff.
22 At the time, our cubicles were right by each other, so
23 verbal communication was kind of typical then.

24 Q. Did you ever see anything written down that
25 reflected Mr. Ryan's conclusions about the abstracts or

1 patents he looked at?

2 A. Not that I recall.

3 Q. And then the two of you, you and Mr. Ryan, you
4 met with Mr. Mailloux to discuss your conclusions;
5 right?

6 A. I don't recall if we both met with him
7 simultaneously or if we met with him individually, but
8 Kevin Ryan and I talked first.

9 Q. And you told Mr. Mailloux that some of what
10 you'd saw -- some of what you had seen looked like
11 stuff that had been used before?

12 A. Correct.

13 Q. And you said that some of it looked like stuff
14 that wasn't very useful to Micron; right?

15 A. Correct.

16 Q. Did you say anything else to him in response to
17 his question, is there prior art?

18 A. No. I think that's pretty much the summary of
19 the prior art question.

20 Q. And then yesterday you talked about that
21 meeting with Rambus in 1995; right?

22 A. Yes.

23 Q. And you said you could not recall whether there
24 was any discussion of Rambus patents. Was that your
25 testimony?

1 A. At the meeting in '95?

2 Q. Yes.

3 A. I believe that they said that they had patents
4 to their technology, but I don't understand -- I don't
5 recall any discussion of patents beyond the
6 technology.

7 Q. Okay.

8 A. Is that clear?

9 Q. Have you remembered something since yesterday
10 and today about what happened at that meeting?

11 A. No.

12 Q. Give me just a second. Thank you.

13 (Pause in the proceedings.)

14 I'm going to show you what appears to be a copy
15 of some slides dated December 14, 1995. It's
16 Exhibit CX-1314.

17 May I?

18 JUDGE McGUIRE: Yes.

19 BY MR. PERRY:

20 Q. Now, I don't have very many questions at all on
21 this page -- on this document. It was produced to
22 Rambus by Micron from Micron's files. It appears to
23 have Rambus logos on it.

24 So if you could flip through it and see if you
25 recognize this as slides that were presented by Rambus

1 at the December 1995 meeting with Micron that you
2 attended.

3 (Pause in the proceedings.)

4 Do you have the question in mind? I'll just
5 restate it.

6 Does this appear to be the slides that were
7 used by Rambus at the December 1995 meeting with Micron
8 that you attended?

9 A. I can't say for sure whether these were the
10 presentations that were used but -- other than the use
11 of the date and Micron at the top.

12 Q. Do you recognize the handwriting?

13 A. I think I do.

14 Q. Whose handwriting do you think that is?

15 A. I think that's either Jeff's or Kevin Ryan's,
16 Jeff Mailloux's or Kevin Ryan's.

17 Q. And do you see on the second page of the
18 exhibit, page 2 -- if you'll pull up the top PowerPoint
19 slide -- do you see it says "Rambus, Inc.
20 Mountain View, California"?

21 MR. OLIVER: Objection, Your Honor. There's
22 been no foundation this witness actually has seen this
23 document before.

24 MR. PERRY: Your Honor, he was at the meeting.
25 He's testified he was at the meeting.

1 JUDGE McGUIRE: You can still lay that
2 foundation and ask if he's seen it.

3 MR. PERRY: Let me just ask if this page
4 refreshes his recollection.

5 JUDGE McGUIRE: Go ahead.

6 BY MR. PERRY:

7 Q. Looking at this particular page, page 2 of the
8 exhibit, do you see where it says "Mountain View,
9 80 people, broad IP coverage, financially sound"? Do
10 you see a reference to Bill Gates and Michael Dell
11 recently invested in the company?

12 Does any of that refresh your recollection of
13 anybody standing up and presenting this slide to you
14 and the Micron people in December of 1995?

15 A. No.

16 MR. PERRY: We'll pass this document,
17 Your Honor.

18 BY MR. PERRY:

19 Q. And you told us yesterday that as a result of
20 this December 1995 meeting a decision was made at
21 Micron not to take a license from Rambus; right?

22 A. Not to take a license for the RDRAM product.

23 Q. Right. At least that was the decision at that
24 time; right?

25 A. Correct.

1 Q. And you said that later on Micron was forced to
2 sign a license with Rambus for direct RDRAM; right?

3 A. From a business sense, yes. For direct RDRAM.

4 Q. And you told us that Micron was forced to sign
5 that license for direct RDRAM because Intel had
6 announced that it was going to work with Rambus
7 technology in the future as the next-generation main
8 memory; right?

9 A. Specifically they were using it not only for
10 main memory but across all the platforms, which
11 indicated a large market share for memory.

12 Q. And that's what forced Micron to sign that
13 license; right?

14 A. Yes.

15 Q. And you talked some about a memo from
16 Mr. Mailloux to Mr. Appleton on that subject. It's
17 RX-829. It's dated December 10, 1996. If you could
18 pull it out, it's probably the top part of your stack.

19 Do you have it?

20 A. Yes.

21 Q. Let's pull up the to/from up at the top just to
22 identify it.

23 Is this an e-mail that you received from
24 Jeff Mailloux in December of 1996 where you were copied
25 on the e-mail?

- 1 A. Yes.
- 2 Q. And Mr. Mailloux sent it to Mr. Appleton?
- 3 A. Correct.
- 4 Q. Mr. Appleton was then the CEO of Micron;
- 5 right?
- 6 A. I believe that's correct. He was CEO or
- 7 president.
- 8 Q. And I see this e-mail is also copied to
- 9 G. Cloud. Is that Gene Cloud?
- 10 A. Yes.
- 11 Q. What was his position at the time in Micron in
- 12 December of 1996?
- 13 A. He was the vice president of marketing.
- 14 Q. Did Mr. Mailloux report to him at the time?
- 15 A. Yes.
- 16 Q. And the memo starts with -- or the e-mail
- 17 starts with, if we look at the first line, "Steve, this
- 18 is what Terry, Kevin and I came up with for Rambus
- 19 negotiating points"; right?
- 20 A. Yes.
- 21 Q. And are you the "Terry" that's referred to?
- 22 A. Yes.
- 23 Q. That the three of you met and talked about
- 24 possible Rambus negotiating points?
- 25 A. Yes.

1 Q. And you understood that that was in advance of
2 the negotiation involving Mr. Appleton and Rambus
3 personnel over a direct RDRAM license?

4 A. Yes.

5 Q. Now, the first sentence says, "As a bigger
6 negotiating point, what if you made some suggestion
7 that we want to make part of the NRE (if it is still
8 high) something where we got a part of their company?"

9 Now, NRE refers to nonrecurring engineering
10 fees; is that right?

11 A. Nonrecurring engineering fees.

12 Q. And the reference to getting a part of their
13 company, is that a reference to getting some equity in
14 Rambus?

15 A. I believe that's what he meant at that time.

16 Q. And was that a suggestion that you and
17 Kevin Ryan and Jeff Mailloux had discussed prior to the
18 preparation of this memo?

19 A. I don't believe Kevin and I were involved with
20 that discussion.

21 Q. You think that's something that Mr. Mailloux
22 came up with either on his own or with somebody else
23 but not with you?

24 A. Yes. Jeff solicited some input from Kevin and
25 I and then Jeff put together an e-mail.

1 Q. Well, let's look down, reasons for the lower
2 NRE, pull up that paragraph.

3 And number one that's listed here is: Micron
4 will not require as much support to develop direct
5 Rambus DRAM.

6 Do you see that?

7 A. Yes.

8 Q. And if you'll go down to the -- not the
9 immediate next sentence but the one after that, it
10 says: "Micron has internal high-speed design
11 expertise. We should not require as much design
12 support as any other DRAM company that Rambus plans to
13 support."

14 Do you see that?

15 A. Yes.

16 Q. Were those some suggestions that you had
17 provided to Mr. Mailloux as negotiating points with
18 Rambus?

19 A. Specifically, we felt that we wouldn't require
20 as much interaction with Rambus in terms of doing a
21 design as some of the other companies.

22 Q. And so the argument you were suggesting was
23 that Rambus wouldn't have to put as much engineering
24 manpower or time into working with Rambus to develop --
25 I'm sorry -- with Micron to develop Micron's direct

1 RDRAM device?

2 A. That's correct.

3 Q. Did you believe that to be true at the time?

4 A. Yes, I did.

5 Q. Now, if you look down to the paragraph
6 numbered 4, that says, "Complete DRAM design
7 schematics can be contracted and/or purchased for
8 2-3M."

9 Did you understand that to be two to three
10 million dollars?

11 A. Yes.

12 Q. And then it says, "MOSAID was willing to do a
13 complete SyncLink DRAM design for this kind of money."

14 Do you see that?

15 A. Yes.

16 Q. Was that information that you provided to
17 Mr. Mailloux as a way of suggesting a reason for Micron
18 to get a lower nonrecurring engineering fee?

19 A. Jeff was aware of the -- of that benchmark, if
20 you will, of what the design fee was quoted by MOSAID
21 for doing SyncLink. I don't recall if that was
22 something I specifically gave to him or Kevin gave to
23 him or was part of our discussion.

24 Q. But was it true at the time that complete DRAM
25 design schematics can be contracted and/or purchased

1 for two to three million?

2 A. Yes.

3 Q. If you'll look on the next page, you say
4 "reasons for lower" -- I'm sorry. You don't say
5 anything. I will try not to do that again.

6 Do you see in Mr. Mailloux's memo on the second
7 page where it says "reasons for lower royalty"?

8 A. Yes.

9 Q. Do you see that?

10 And item number 1 says: "We have been
11 investigating high-speed DRAMs and the intellectual
12 property associated with them for some time now.
13 Internally, we were working on something called the
14 Wasatch Project before we started our work with
15 SyncLink."

16 Did I read that correctly?

17 A. Yes.

18 Q. Were you at all involved with the
19 Wasatch Project?

20 A. Yes.

21 Q. And did Micron file patents arising from work
22 done in connection with the Wasatch Project?

23 A. No. Not to my knowledge.

24 Q. Okay. Well, do you see the next line where
25 Mr. Mailloux says, "We have of course been filing

1 patents related to this work"? Do you see that?

2 A. Yes.

3 Q. Does that refresh your recollection that in
4 fact Micron had been filing patent applications
5 relating to the Wasatch Project work?

6 A. I think we had been filing some patents related
7 to high-speed DRAMs. I don't know if it was
8 necessarily related to exactly what we were calling the
9 Wasatch Project.

10 Q. And those applications were related to the
11 high-speed synchronous DRAMs; right?

12 A. I don't recall. They were high-speed DRAM in
13 general, just techniques for operating DRAMs or
14 developing DRAMs that are high speeds.

15 Q. The Wasatch Project, was that a high-speed
16 DRAM?

17 A. The Wasatch Project was I would describe it as
18 brainstorming sessions on things that high-speed DRAMs
19 would need in the future.

20 Q. Was there a design schematic prepared?

21 A. No.

22 Q. Was there any consideration given to the need
23 to use dual-edged clocking?

24 A. I don't recall.

25 Q. How about programmable burst? Was there any

1 consideration given to the need for programmable burst
2 in that device?

3 A. I don't recall if that was one of the features
4 under consideration.

5 Q. Who was in charge of the Wasatch Project?

6 A. I'm not sure that there was really an official
7 leader.

8 Q. Was there an unofficial leader?

9 A. Not that I know of.

10 Q. Well, Mr. Mailloux goes on to say, that line I
11 read part of says, "We have of course been filing
12 patents related to this work and in anticipation of how
13 high-speed DRAMs would evolve."

14 Do you see that?

15 A. Yes.

16 Q. When you got this memo, did you have an
17 understanding of what Mr. Mailloux meant by we've been
18 filing patents in anticipation of how high-speed DRAMs
19 would evolve?

20 A. I believe I had an understanding of what he
21 meant.

22 Q. Did you understand him to mean that Micron was
23 attempting to anticipate what other companies might be
24 using in high-speed DRAMs in the future?

25 A. No, not exactly.

1 Q. What did you understand him to mean?

2 A. What he meant was we were spending some time
3 with Wasatch trying to figure out how in the future
4 high-speed DRAMs might change or the kind of features
5 that might be helpful and the kind of things we might
6 need to do for future high-speed DRAM development.

7 And the Wasatch Project was really just a
8 series of a few meetings. There was other thoughts and
9 discussions in high-speed DRAMs in general in this time
10 which may or may not have been called the
11 Wasatch Project.

12 Q. So as you understood it, when he talks about
13 filing patent applications in anticipation of how
14 high-speed DRAMs would evolve, did you understand him
15 to be talking about the need to include that kind of
16 patents in future cross-license negotiations?

17 A. Not necessarily.

18 Q. Did you understand him to be talking about the
19 ability to assert those patents against other companies
20 that might be making high-speed DRAMs?

21 A. Not necessarily.

22 Q. What did you understand him to mean by "in
23 anticipation of how high-speed DRAMs would evolve"?

24 A. My understanding was that he was saying that
25 we've thought about the way these things are going in

1 the future and that we have filed some patents related
2 to that and my understanding is primarily for defensive
3 purposes.

4 Q. Now, since you've been at Micron, Micron has
5 encouraged you to file patent applications; correct?

6 A. Correct.

7 Q. Is that one of the parameters on which your
8 performance is judged?

9 A. Not necessarily.

10 Q. Sometimes it is, isn't it?

11 A. I've never really received any feedback that I
12 did well or not did well based on number of patents.

13 Q. What was your understanding as to why Micron
14 wanted you to file patent applications?

15 A. Micron wanted to develop a patent portfolio
16 over time.

17 Q. Why?

18 A. It goes back to the history of Micron. Early
19 on in Micron's history, they were subject to some
20 licensing with some other companies, and we felt that
21 we were at a relative disadvantage compared to some of
22 the companies we were cross-licensing with, and so in
23 general they wanted us to try to develop our patent
24 portfolio over time.

25 Q. And you understood that it was desirable to

1 develop -- to file patent applications on technologies
2 that would be useful in the future; correct?

3 A. Sure.

4 Q. Now, this memo goes on to say, this memo from
5 Mr. Mailloux, RX-829, goes on to say, "We have also
6 been investigating the prior art related to the area of
7 high-speed DRAMs."

8 Do you see that?

9 A. Yes.

10 Q. And then it says, "From our research, we think
11 many Rambus patents read on prior art or other
12 patents."

13 Do you see that?

14 A. Yes.

15 Q. Had you provided Mr. Mailloux with any
16 information prior to his preparation of this memo with
17 respect to whether or not Rambus patents were
18 anticipated by prior art?

19 A. The only information he was provided is that
20 which we already discussed today.

21 Q. So did you have any conversation between
22 December 1995, which was when you were looking at those
23 patents in anticipation of that December 1995 meeting,
24 and December 1996, which is when this memo was
25 prepared, about the issue, the general issue of whether

1 or not Rambus intellectual property was -- strike that.
2 Let me ask it again.

3 Did you have any conversation with Mr. Mailloux
4 between December 1995 and December 1996 about the
5 general issue of prior art with respect to Rambus
6 patents?

7 A. No. No discussions that involved any new
8 information from what we've discussed before.

9 Q. Okay. Now, I see references in this memo from
10 Mr. Mailloux, RX-829, to SyncLink.

11 Do you see that in that paragraph we've been
12 looking at?

13 It says "Before we started our work with
14 SyncLink." Do you see that?

15 A. Yes.

16 Q. And by this point in time, December 1996, you
17 were involved with SyncLink; correct?

18 A. Yes.

19 Q. Well, let's look at a document about seven days
20 later, RX-836.

21 May I?

22 JUDGE McGUIRE: Yes.

23 BY MR. PERRY:

24 Q. Do you see the date on this of December 17,
25 1996?

1 A. Yes.

2 Q. You know, I'll let you read it, but I just want
3 to establish that you're a recipient.

4 If you'll see about eight lines down over on
5 the right side, do you see you were at least listed as
6 a recipient of this e-mail?

7 A. Yes, I see my name.

8 Q. Now, before I ask you questions about it, it's
9 a couple of pages long, why don't you take a minute and
10 read it.

11 (Pause in the proceedings.)

12 Have you had a chance to read it?

13 A. Yes.

14 Q. When I ask you a question, if you need more
15 time, take it.

16 Do you understand this to be a -- it's called a
17 script.

18 Do you understand this to be some position -- a
19 position statement that folks at Micron could use in
20 response to questions or discussions with customers in
21 this time period?

22 A. I think I understand this as serving two
23 purposes, one the purpose you mentioned, and the other
24 was to provide a general education to the variety of
25 people on this list as to what this was about and the

1 differences between RDRAM and next-generation RDRAM.

2 Q. Well, let's pull up the top part of the second
3 page.

4 Do you see where it says, "Stacie, please
5 forward to all sales, marketing and apps"?

6 A. Yes.

7 Q. And this is at least signed on the last page
8 has the name Jeff Mailloux on it.

9 Do you see that?

10 A. Yes.

11 Q. And you think this is something from
12 Jeff Mailloux to somebody named Stacie, asking her to
13 forward it to a large group of people; right?

14 A. Yes.

15 Q. Who was Stacie?

16 A. Marketing assistant.

17 Q. And then it says "for use as a guide for
18 discussions with customers only"; right? Do you see
19 that?

20 A. Yes.

21 Q. And then just below that it says "Micron script
22 for response to Intel plans to use nDRAM (Rambus
23 derived) in 1999."

24 Do you see that?

25 A. Yes.

1 Q. Was it -- is it your recollection that in and
2 around December 1996 Intel had announced its intentions
3 to incorporate Rambus technology across various
4 platforms?

5 A. Yes.

6 Q. And is it your understanding that this is, at
7 least in part, intended to be a position statement for
8 use by Micron folks to customers?

9 A. To answer questions from customers.

10 Q. Okay. And then it says "General Statement."
11 Let's pull that paragraph up.

12 It says, "Micron is in the business of
13 providing high-performance, cost-effective memory
14 solutions to our customers."

15 You agreed with that at the time; right?

16 A. Yes.

17 Q. And the next sentence says, "We will always be
18 interested in producing whatever type of memory meets
19 the needs of the market and can be produced in
20 sufficient volume to drive costs down."

21 Did you agree with that at the time?

22 A. Yes.

23 Q. What is it about the volume that drives
24 Rambus -- Micron's manufacturing costs down?

25 A. Well, there's -- there's aspects of a memory

1 product that have fixed costs and there's aspects that
2 have variable costs, and those variable costs --
3 components of the variable cost can be driven down by
4 volume through improvements in yield.

5 Q. And has it been the traditional pattern in
6 introduction of DRAM devices in your experience that
7 as the volume ramps up, the manufacturing costs come
8 down?

9 A. They come down to some point and they flatten
10 out similar to our discussion yesterday.

11 Q. Okay. Well, if you'll look down to the third
12 paragraph, there's a description or a statement about
13 Intel here.

14 Do you see that?

15 A. Yes.

16 Q. It says, "Intel currently plans to use a 'new
17 and improved' version of Rambus technology for the main
18 memory in one of their future high-end computer
19 platforms, which would first appear in 1999."

20 Do you see that?

21 A. Yes.

22 Q. Now, was it your understanding at the time that
23 Intel's use of the Rambus DRAM wouldn't happen for a
24 few years?

25 A. Yes.

1 Q. Okay. It says, "This new DRAM has been called
2 'nDRAM' and it is still being defined."

3 Was that your understanding at the time?

4 A. Yes.

5 Q. If you can look on the next page, please,
6 page 3 of the document, do you see about a third of the
7 way down it says "Questions and Answers"?

8 A. Yes.

9 Q. Let's look at this question by question.

10 Let's pull up question and answer number 1.

11 Question number 1: Does Micron have a Rambus
12 license?

13 Is that question number 1?

14 A. Yes.

15 Q. And it says: "No, we do not. We also are
16 unaware of any barriers to Micron obtaining a Rambus
17 license, should we decide to do so."

18 And did you believe that to be a true statement
19 at the time?

20 A. Yes.

21 Q. Now, then it says, "Even though we have not
22 been working directly on Rambus technology, we have
23 been doing R&D on similar solutions (SyncLink and other
24 internal R&D projects) for some time now."

25 Do you see that?

1 A. Yes.

2 Q. Do you agree that SyncLink was a similar
3 solution to Rambus?

4 A. Only to the extent that it is a high-speed
5 DRAM.

6 Q. That's the only similarity that you can see?

7 A. I think that's what Jeff is referring to here.

8 Q. But you talked yesterday about some
9 similarities between SyncLink and Rambus, didn't you?

10 A. I'd compared a couple things that were similar.
11 Most things were different.

12 Q. Okay. One of the similarities between the two
13 that you didn't mention yesterday is both use
14 dual-edged clocking; right?

15 A. Not exactly.

16 Q. Well, as of 1995, you understood both to use
17 dual-edged clocking, didn't you?

18 A. No.

19 Q. Okay. Did you understand in 1995 that both
20 devices used both edges of the clock to transmit data?
21 Is that statement true?

22 A. My knowledge of SyncLink, I only had a
23 cursory-level knowledge in the 1995 time frame. I
24 wasn't involved much with SyncLink at that time.
25 In '96 is when I became more involved with SyncLink,

1 and my understanding of SyncLink is we use a
2 synchronous strobe that uses dual edge to capture
3 data.

4 Q. And you think that's different from the way
5 Rambus does dual-edged clocking; right?

6 A. I believe that Rambus uses a dual-edged clock
7 to capture data, whereas SyncLink is a source
8 synchronous design.

9 Q. And you think that's a difference between the
10 two?

11 A. Yes.

12 Q. It makes them not similar in your view?

13 A. Yes.

14 Q. Well, look at paragraph 2 or question 2. That
15 question is: How quickly will nDRAM replace SDRAM,
16 will SDRAM have a short life?

17 Do you see that?

18 A. Yes.

19 Q. And the second sentence in the answer says,
20 "How quickly nDRAM replaces existing DRAM solutions at
21 that time will be a question of cost versus performance
22 and supplier support of nDRAM, and nobody can predict
23 this with any accuracy out that far (1999, 2000, 2001,
24 et cetera)."

25 Do you see that?

1 A. Yes.

2 Q. Did you agree with that at the time?

3 A. Definitely.

4 Q. And when you got this memo, did you have an
5 understanding of what Mr. Mailloux meant by "supplier
6 support of nDRAM?"

7 A. Yes.

8 Q. What did you understand him to mean?

9 A. Supplier support, in our business we have to
10 have perfectly substitutable products from other
11 suppliers, so there needs to be multiple sources for
12 the same part.

13 Q. And that would also mean that it would be
14 likely there would be a higher volume of nDRAM
15 available; right?

16 A. I'm not sure I understand that question.

17 Q. Did you also understand "supplier support of
18 nDRAM" to mean volume production?

19 A. I understood "supplier support" to mean that
20 multiple suppliers were producing a part.

21 Q. In production volumes?

22 A. Yes.

23 Q. Okay. Look at the fourth question. I think
24 that it goes from 2 to 4 in the numbering, but let's
25 talk about number 4.

1 It says, "What would having to make nDRAM or
2 SyncLink mean to Micron?"

3 Do you see that?

4 A. Yes.

5 MR. PERRY: Actually I've got this on a board
6 if I could, Your Honor.

7 JUDGE McGUIRE: Yes, go ahead.

8 MR. PERRY: And we would propose to mark this
9 blowup from this Exhibit RX-836 as DX- --

10 JUDGE McGUIRE: I think it's 118.

11 MR. PERRY: -- 118. Thank you.

12 BY MR. PERRY:

13 Q. Mr. Lee, question 4 is: What would having to
14 make nDRAM or SyncLink mean to Micron?

15 Do you see that?

16 A. Yes.

17 Q. And it says, "Keep in mind that all of these
18 DRAM technologies use the same DRAM process, the same
19 DRAM cell, and virtually the same DRAM array."

20 Did you agree with that at the time?

21 A. I would agree with everything but "the same
22 DRAM array" statement.

23 Q. And you disagreed with that at the time?

24 A. I think that the arrays of those different
25 architectures are somewhat different.

1 Q. Did you think it was a substantial enough error
2 that it needed to be corrected since this script was
3 going out to all sales and marketing folks to use as a
4 script with customers?

5 A. No. It's really just a matter of technical
6 detail. My understanding is more technically involved
7 than Jeff's is and that who he sent it out to in
8 general is less technically involved than he is, so for
9 the purposes of the audience he was sending it to it
10 wouldn't have mattered either way.

11 Q. The next sentence says, "The majority of
12 Micron's R&D budget goes into process and cell
13 development or the core DRAM technology."

14 Do you see that?

15 A. Yes.

16 Q. And did you agree that that was a true
17 statement at the time?

18 A. I believe what he meant was that the majority
19 of R&D he felt was going into process development, and
20 I can't state whether -- what percentage that was using
21 of our R&D budget, so I'm not sure how to answer the
22 question.

23 Q. And then the last paragraph that's captured up
24 on this board says: "Switching from one product to
25 another while still using the same core technology

1 involves only changing priorities in design and product
2 engineering and may mean some differences in our
3 assembly and test equipment purchases. SDRAM, SLDRAM,
4 nDRAM all use the same fab equipment and core DRAM
5 technology. In short, while the flavors might change,
6 it's still a DRAM."

7 Do you see that?

8 A. Yes.

9 Q. Now, that sentence, "SDRAM, SLDRAM, nDRAM all
10 use the same fab equipment and core DRAM technology,"
11 you agreed with that at the time; right?

12 A. I agree with what I believe his intent was.
13 His intent I believe was that the same fab equipment
14 means in the semiconductor processing part and by the
15 same core DRAM technology he means in the transistor
16 cell development. He's talking about a process
17 development issue.

18 Q. You didn't see any reason to change that
19 sentence before it was used in discussions with
20 customers by Micron; right?

21 A. Not based on our knowledge at that time.

22 Q. Now, if you go back to page 2 of this document,
23 please, if you'll look on the last full paragraph, I
24 didn't ask you about this part before. Let me focus on
25 it.

1 It says, "Micron has been very involved in
2 research and development efforts on the SyncLink DRAMs
3 (SLDRAMs)."

4 Do you see that?

5 A. Yes.

6 Q. And in 1996 you had been involved in those
7 efforts on behalf of Micron; correct?

8 A. Correct.

9 Q. And then it says that SyncLink is an open,
10 nonproprietary standard that is being promoted by a
11 consortium of nearly all of the major DRAM suppliers.

12 Do you see that?

13 A. Yes.

14 Q. Is that information you provided to
15 Mr. Mailloux?

16 A. I don't recall.

17 Q. Did you believe those statements to be true at
18 the time?

19 A. From a legal sense, I'm not sure I understand
20 the legal definition of those standards.

21 Q. Okay. And then it says, "Our involvement in
22 SyncLink has required the same type of R&D that is
23 involved with the existing and future Rambus types of
24 technology."

25 Did you believe that to be true at the time?

1 A. I guess in this case I'm not sure exactly what
2 he means.

3 Q. Well, did you have an understanding of that
4 sentence at the time you got this memo?

5 A. I may have, but I don't recall. I don't recall
6 this memo very well.

7 Q. The next sentence says, "Both efforts involve
8 packetized, narrow channel, high-speed I/O DRAMs."

9 Do you see that?

10 A. Yes.

11 Q. Did you agree with that statement at the time?

12 A. I believe both parts have been characterized
13 that way at various times.

14 Q. Did you believe it to be true at the time?

15 A. I guess it comes down to what personal
16 definitions are of "narrow channel" and "packetized"
17 and all that. I believe that the command address bus
18 on SyncLink was packetized but not the data bus.

19 So it kind of comes down to what you mean by
20 "packetized" there. Also, SyncLink had a wider channel
21 than Rambus, so it depends on what you -- what "narrow"
22 means. And they're both high-speed I/O, although I
23 think we pointed out that there are differences in
24 speeds as well.

25 So these are all kind of relative, subjective

1 terms, so I agree that they were both characterized
2 that way at that time.

3 Q. Do you have any reason to believe that
4 Mr. Mailloux didn't think that this statement was true
5 at the time this memo was prepared for use as a script
6 with Micron customers?

7 A. I don't have any reason to believe that he
8 didn't believe it was true; however, as I mentioned
9 before, his level of technical expertise was somewhat
10 less detailed.

11 Q. Does that suggest to you that he relied upon
12 you for this information?

13 A. He would have relied on the input of people
14 like Terry Walther, Kevin Ryan and myself and also
15 things that he read.

16 Q. And you told us yesterday Mr. Walther had gone
17 to some SyncLink meetings before you; correct?

18 A. That's correct.

19 Q. And at some point did he ask you to take over
20 going to SyncLink for him?

21 A. Not exactly.

22 Q. How did that work, that you started going and
23 that he -- did he stop going?

24 A. He eventually stopped going. I think later on
25 he reattended some meetings.

1 Q. Okay. Well, did somebody ask you to start
2 going to SyncLink meetings?

3 A. Yes.

4 Q. Who?

5 A. Terry Walther.

6 Q. Okay. Did he tell you why he wanted you to go
7 to SyncLink meetings?

8 A. Yes.

9 Q. What did he tell you?

10 A. He wanted me there to provide some technical
11 support for the kind of issues that were being
12 discussed.

13 Q. And during the time period when he had been
14 going to meetings and you weren't, was he sending you
15 some minutes from the meetings?

16 A. I don't recall if he sent me minutes or not or
17 whether he was just giving me verbal updates. I
18 certainly remember the verbal updates.

19 Q. When you first started attending SyncLink
20 meetings, did Mr. Walther give you some information,
21 some kind of information package about what SyncLink
22 was?

23 A. I don't recall the specific event, so I'm not
24 sure whether he did or he didn't.

25 Q. Okay. When you started showing up at SyncLink

1 meetings, did Mr. Tabrizi or Mr. Gustavson give you an
2 information package about SyncLink?

3 A. I don't recall at what time I received
4 specific information on SLDRAM beyond what I already
5 had or what I already knew. I started attending
6 meetings and receiving information from the meeting
7 flow and I don't recall an event of being given
8 particular information prior to my joining the
9 consortium.

10 Q. Okay. There's a line in here just after the
11 one I was reading you in this RX-836 that says, "While
12 SyncLink was not chosen by Intel, it currently has
13 broader supplier and customer interest than nDRAM, due
14 in part to its nonproprietary nature."

15 Do you see that?

16 A. Yes.

17 Q. And did you understand at the time the
18 reference to SyncLink not being chosen by Intel?

19 A. Yes.

20 Q. And is it correct that in the fall of '96 there
21 was an effort on behalf of the -- strike that.

22 Is it correct that in the fall of '96 there was
23 an effort on the part of the companies involved in
24 SyncLink to persuade Intel to choose SyncLink instead
25 of Rambus?

1 A. There was an effort, there was a presentation
2 made to Intel to try to show the merits of SyncLink.
3 It was hoped that Intel would use that for their
4 next-generation DRAM they were calling.

5 Q. Instead of Rambus; right?

6 A. That was the other part that they were
7 seriously considering. I think later on they
8 considered DDR as well.

9 Q. But at that time in the fall of '95 your
10 understanding -- fall of '96 your understanding was
11 that it came down to SyncLink and Rambus?

12 A. For Intel's decision?

13 Q. Yes.

14 A. I believe those were the highest consideration.

15 Q. Okay. And you participated in efforts in that
16 fall of '96 time period to try to persuade Intel to
17 choose SyncLink; right?

18 A. Correct.

19 Q. And after Intel had chosen Rambus, you
20 participated in efforts to persuade Intel to change its
21 mind; right?

22 A. After Intel had chosen Rambus?

23 Q. Yeah.

24 A. I don't recall if there were any of those
25 discussions after the choice was made. I recall one

1 discussion with Intel prior to our signing the license
2 of showing some technical problems we felt that Rambus
3 had.

4 Q. Well, I'm not limiting my question just to
5 face-to-face or even on-the-phone discussions directly
6 with Intel.

7 Did you participate in any efforts after Intel
8 had chosen Rambus to persuade -- that were intended to
9 persuade Intel to change its mind?

10 A. I recall discussions with Intel showing
11 technical issues or manufacturing issues and problems
12 that we felt we would have bringing Rambus up in
13 production, and I also remember showing them details of
14 DDR and some other products that we felt we could bring
15 up easier.

16 Q. And is that a yes, that you did participate in
17 some efforts to persuade Intel to change its mind after
18 Intel chose Rambus?

19 A. I guess I wouldn't characterize it that way as,
20 well, I'm trying to explaining it to you because the
21 way you're asking the question isn't exactly the way I
22 would refer to it as.

23 Q. Okay. Well, we'll look at it.

24 But you certainly knew as of December 1996 that
25 Micron did not want to be forced to sign a license

1 agreement with Rambus to produce nDRAM or direct RDRAM;
2 right?

3 A. That we did not want to be forced?

4 Q. Yeah.

5 A. Is that the question?

6 Yeah, we prefer not to be forced.

7 Q. Well, you told us that ultimately Micron was
8 forced to sign that agreement; right?

9 A. We had no choice but to provide products in
10 support of the Intel platforms. That would have been
11 not good economically for us.

12 Q. And you understood in December of 1996 and
13 throughout 1997 Micron did not want to sign that
14 license; right?

15 A. I understood that we signed that license.

16 Q. You understood that it signed the license
17 because it was forced to; right?

18 A. We had economic pressure, yes.

19 Q. Okay. Well, let's go back into the fall of
20 1996 time period and I'll show you something from
21 August 1996, which is Exhibit RX-757.

22 May I?

23 JUDGE McGUIRE: Yes.

24 BY MR. PERRY:

25 Q. I don't have many questions for you about this

1 lengthy document. This is some SyncLink Consortium
2 meeting minutes produced to us by Hynix, dated
3 August 27, 1996.

4 Do you see that you're listed as attending?

5 A. Yes, I do.

6 Q. Do you have any reason to believe that you did
7 not attend this August 1996 meeting of the
8 SyncLink Consortium?

9 A. No.

10 Q. Well, on the subject that we were just talking
11 about, let's look about halfway down the first page of
12 these minutes, where it says "Kevin Ryan."

13 Do you see where it says "Kevin Ryan"? He was
14 a Micron person; right?

15 A. Yes.

16 Q. "Kevin Ryan will sum up Intel meeting. Intel
17 impressed, will increase its attention to this
18 consortium."

19 Do you see that?

20 A. Yes.

21 Q. Were you present for that Intel meeting that's
22 being described there?

23 A. Yes, I was.

24 Q. Who else besides you and Mr. Ryan -- well,
25 strike that.

1 Was Mr. Ryan also present?

2 A. Yes, he was.

3 Q. And who else besides you and Mr. Ryan were
4 present at that Intel meeting to discuss SyncLink?

5 A. There were members from a variety of
6 companies, so there was roughly two people from
7 several companies.

8 Q. How many companies were represented at that
9 meeting with Intel?

10 A. An estimate would be seven or eight.

11 Q. And if you'll look on page 3, please, of these
12 minutes, and look at the first 12 or 13 lines. Just
13 read that to yourself and then I have a couple of
14 questions.

15 (Pause in the proceedings.)

16 A. Okay.

17 Q. Now, does it appear to you that Mr. Tabrizi is
18 roughly summarizing what Intel's performance goals
19 were that they had stated at that meeting you had
20 attended?

21 A. Yes. I think these were rough requirements or
22 targets that they had.

23 Q. And then there's a statement at least
24 attributed to you that says, "We were successful in
25 keeping the door open, but we have an emergency

1 situation."

2 Do you see that?

3 A. Yes.

4 Q. Now, assuming that these minutes are accurate,
5 why did you think that there was an emergency
6 situation?

7 A. When we talked with Intel, they felt that we
8 needed to have a lot more progress to be considered for
9 their decision, and so they said we really only had a
10 few months and they listed the variety of things that
11 we needed to do, so in my opinion, that was a lot of
12 work in a very short time, so that's the reference to
13 the emergency situation.

14 Q. Well, look back on page 2. And let's look
15 next to your name about halfway down. It says
16 "Terry Lee."

17 Pull up three or four lines.

18 It says: "Terry Lee, status of test chip. The
19 test chip was intended as an opportunity to prove we
20 could really do it, which seems less important now
21 because Intel is satisfied that simulations are good
22 enough."

23 Is that a message that you had understood from
24 the meeting with Intel that they were going to be
25 satisfied with simulations of the SyncLink chip?

1 A. They -- yeah, they're pretty high priority.
2 We, going into the meeting, felt that chip test was
3 rather important, and as a result of the meeting, they
4 seemed to emphasize a higher focus on simulation data.

5 Q. And then it says, "Rambus has hardware now that
6 works, which provides an existence proof."

7 Why would the fact that Rambus had working
8 hardware provide an existence proof for SyncLink?

9 A. For SyncLink? It's not for SyncLink.

10 Q. Okay. So that reference to an existence proof
11 doesn't have anything to do with SyncLink; is that
12 right?

13 A. That Rambus has hardware that works provides an
14 existence proof references the fact that they're able
15 to demonstrate hardware working at some data rate, so
16 there's some kind of proof in that alone that it can
17 operate at this data rate. Simulations are a different
18 kind of proof.

19 Q. Okay. Let me show you a document that's dated
20 just a few weeks later in September 1996, RX-765.

21 May I?

22 JUDGE McGUIRE: Yes.

23 BY MR. PERRY:

24 Q. Mr. Lee, at some point in time were you
25 involved in public relations efforts on behalf of

1 SyncLink?

2 A. That really wasn't my responsibility. I was
3 involved in the technical work.

4 Q. Were you ever chair of the PR task force for
5 SyncLink?

6 A. Not that I recall.

7 Q. Okay. But you did see this press release in
8 September 1996, didn't you?

9 A. Yes.

10 Q. Now, the press release begins by referring to,
11 if you'll look in the third line, an open,
12 royalty-free industry standard for high-performance
13 DRAMs.

14 Do you see that?

15 A. Yes.

16 Q. And did you have an understanding at the time
17 of what was meant by "an open, royalty-free standard"?

18 A. I think what they're referring to at that time
19 was that it didn't require a license fee and an NDA to
20 get access to the information.

21 Q. Well, look on the second page. There's a
22 description of the SyncLink timeline.

23 Do you see that?

24 "The SyncLink Timeline," it says, "The
25 timeline announced by the consortium calls for the

1 first SLDRAMs to be available in the second half of
2 1997."

3 Do you see that?

4 A. Yes.

5 Q. Had you been involved in working out the date
6 by which the world was going to be told the first
7 SLDRAMs were going to be available?

8 A. To establish the target of second half when
9 companies would first start having devices; is that the
10 question?

11 Q. Did you have an understanding of what this
12 means, "be available"?

13 A. Yes.

14 Q. What was your understanding?

15 A. We understood that some companies would have a
16 device, you know, have silicon at that time.

17 Q. So that just means having silicon to you?

18 A. To sample.

19 Q. It doesn't mean production volume, does it?

20 A. Not necessarily.

21 Q. And then it says "The SyncLink Consortium,"
22 and do you see there's a statement that "The
23 SyncLink Consortium members include nine of the top
24 DRAM suppliers, bringing together companies with
25 commodities manufacturing expertise and a combined

1 DRAM market share of 75 percent worldwide"? Do you see
2 that?

3 A. Yes.

4 Q. Did you have any reason to doubt the accuracy
5 of that statement at the time?

6 A. No, I don't think so.

7 Q. Now, did you learn shortly after this press
8 release was released that the statement "royalty-free"
9 that appeared in the press release was untrue?

10 A. I recall some discussion, I think some concerns
11 as to Micron whether that met -- whether that statement
12 met our I guess standard definition of what
13 royalty-free was all about.

14 Q. And was that a concern you had?

15 A. I don't recall if it was my concern. I know
16 internally after the press release went out we were
17 concerned whether that was clearly representing the
18 situation or not.

19 Q. Okay. Well, let me show you the next month's
20 meeting minutes. You were also present for this one.
21 It's RX-780.

22 May I?

23 JUDGE McGUIRE: Go ahead.

24 BY MR. PERRY:

25 Q. I just have one question on this document

1 after I demonstrate that you're listed as being
2 present.

3 Do you see that you're listed as an attendee at
4 the October 1996 SyncLink Consortium meeting?

5 A. Yes.

6 Q. And if you'll look at page 2, the line at the
7 very bottom of page 2 that starts "in our last press
8 release," do you see that?

9 It says: "In our last press release, we said
10 this is a royalty-free architecture. We didn't mean
11 individual companies would not be able to collect
12 royalties for the use of their property. We just meant
13 that users won't have to pay royalties to the
14 consortium."

15 Do you see that?

16 A. Yes.

17 Q. And is that statement consistent with your
18 understanding of the way the SyncLink device would be
19 treated for intellectual property purposes?

20 A. My understanding is that there was no fee to
21 use the device or get access to the specification.
22 There was some fee to join the consortium, just a
23 yearly, annual fee, and I don't recall that there was
24 any royalties required to be paid to the consortium.

25 Q. Did you have an understanding that you had to

1 be a consortium member in order to use the patents?

2 A. I don't recall what my understanding was at
3 the time. I probably had been working with legal on
4 that.

5 Q. Did you have an understanding at this time that
6 if Micron developed intellectual property as a result
7 of its work on SyncLink devices that it would still be
8 able to collect royalties for the use of that
9 intellectual property?

10 A. I don't recall what my exact understanding was.
11 I would have been talking to my legal department,
12 though.

13 Q. I don't want you to, at any point in time
14 today, I don't want you to tell me what you and your
15 legal department talked about. Okay?

16 A. Okay.

17 Q. Did you ever talk to Mr. Mailloux about the
18 press release?

19 A. I don't remember a specific conversation. It's
20 possible.

21 Q. Did you ever have any conversation at a
22 SyncLink Consortium meeting where somebody said, We
23 really should correct that press release to reflect
24 that individual companies can still collect royalties
25 for the use of their property if it's being used in a

1 SyncLink device?

2 A. I remember a discussion about concerns whether
3 that press release was accurately reflecting the
4 consortium situation.

5 Q. But you do know that no corrected press release
6 was ever circulated, don't you?

7 A. I don't recall.

8 Q. Now, in this same time period, September 1996,
9 you understood that Intel was visiting various DRAM
10 manufacturers to talk about the possibility that Intel
11 would choose RDRAM instead of SyncLink; right?

12 A. We had a visit --

13 MR. OLIVER: Objection, Your Honor. Lack of
14 foundation in terms of what Intel was doing with other
15 companies.

16 JUDGE McGUIRE: Sustained.

17 BY MR. PERRY:

18 Q. Did you have any understanding in
19 September 1996 that Intel was visiting various DRAM
20 manufacturers?

21 MR. OLIVER: Objection, Your Honor.

22 BY MR. PERRY:

23 Q. Yes or no?

24 MR. OLIVER: Objection, Your Honor. To the
25 extent that he has an understanding, it would be the

1 result of hearsay.

2 MR. PERRY: No, Your Honor. He was there.

3 JUDGE McGUIRE: I'll entertain the question.

4 THE WITNESS: The question was did I have any
5 knowledge that Intel was visiting DRAM manufacturers?

6 BY MR. PERRY:

7 Q. Yes.

8 A. They visited us occasionally.

9 Q. In this time period, in advance of announcing
10 that Intel was going to choose Rambus, did Intel come
11 to Micron and talk about the possibility that it might
12 choose Rambus?

13 A. In late '96 I believe they came to visit in
14 preparation -- after they'd made their decision, in
15 preparation for a license negotiation.

16 Q. And in that meeting you made an effort to talk
17 them out of it, didn't you? Didn't you? You, Mr. Lee,
18 you tried to talk them out of it?

19 A. We tried to show them the technical problems
20 that we saw. This is what I discussed earlier with
21 you. We tried to show them the technical problems that
22 we saw with some of the Rambus technology.

23 Q. And in fact you, Mr. Lee, asked the other DRAM
24 manufacturers to ask hard technical questions of Intel
25 when Intel came to visit them; right?

1 A. I believe I did.

2 Q. Well, let's look at it. It's RX-763.

3 May I?

4 JUDGE McGUIRE: Yes.

5 BY MR. PERRY:

6 Q. Now, this is an e-mail chain. Let me just
7 describe it for you while you look at it to help you
8 understand it.

9 It's some e-mails that were produced to us by
10 Mitsubishi in this matter. Embedded in it is what
11 appears to be an e-mail from you.

12 There's a statement up at the top that says,
13 "The attached e-mail is from Terry Lee of Micron to aid
14 the preparation of Rambus-Intel meeting."

15 So I'll give you a chance to look at it and
16 then I'm going to ask you some questions.

17 (Pause in the proceedings.)

18 Did you prepare a list of questions for other
19 DRAM manufacturers to ask Intel at meetings that Intel
20 was going to have with those manufacturers in the fall
21 of 1996?

22 A. Yeah. A list of technical questions.

23 Q. Right.

24 And your purpose in doing so was to -- well,
25 strike that. Let me go at that a different way.

1 Did you receive authorization from your
2 supervisor, Mr. Mailloux, before preparing questions to
3 send to other manufacturers that they would ask Intel
4 about Rambus?

5 A. I don't recall if I did.

6 Q. Now, the other manufacturers, the other DRAM
7 manufacturers, were your competitors at the time;
8 right?

9 A. Correct.

10 Q. Why were you cooperating with your competitors
11 to try to persuade Intel not to choose Rambus?

12 A. I didn't say I was doing that.

13 Q. Weren't you, when you sent this list of hard
14 questions out, weren't you hoping that the questions
15 would persuade Intel to change its mind or at least
16 delay its decision to choose Rambus?

17 A. That wasn't the intent that I expressed or the
18 intent that I had with these questions.

19 Q. What was your intent with the questions?

20 A. I think a little background would be helpful
21 here.

22 At this time Rambus was overstating the
23 progress of their technology on direct RDRAM. They
24 were overstating the level of completion of the
25 solution. And they -- one concern was they were trying

1 to take this application out to a main memory that
2 would be much higher volume and had different
3 challenges associated than when they were doing their
4 regular RAMBUS for graphics.

5 And so our concern as a manufacturer was that
6 Intel didn't have accurate information about some of
7 these issues, and so we felt if Intel was going to make
8 a decision to support a high-volume memory technology
9 that we were going to have to manufacture, they should
10 at least be able to answer these questions and make
11 sure the infrastructure was in place and the level of
12 completion of the solution was to the point that this
13 was a reasonable technical manufacturing
14 infrastructure.

15 Q. And you didn't think your competitors would
16 come to those conclusions on their own and be able to
17 ask hard questions when Intel visited them? Is that
18 why you prepared these questions?

19 A. No, I don't think that was an inclusion.

20 Q. Why didn't you think that it was up to the
21 competitors -- strike that.

22 Why didn't you think that your competitors,
23 the other DRAM manufacturers, would be able to ask
24 hard questions if they thought it important to ask
25 them?

1 A. I think they would be able to.

2 Q. Isn't it true that in the SyncLink meeting
3 there was an agreement made to ask these questions of
4 Intel when Intel visited the DRAM manufacturers?

5 A. I don't know if there was an explicit
6 agreement. I shared the kind of questions that we were
7 going to ask, and we encouraged other people to ask
8 these kind of questions to try to understand, you know,
9 where the level of completion was on this and Intel's
10 understanding of these issues.

11 Q. Well, you thought Intel had been bamboozled by
12 Rambus, in short; right?

13 A. I didn't say that.

14 Q. Did you think Intel had been misled by Rambus
15 at this point in time?

16 A. I think that Rambus was overstating -- had
17 overstated the level of completion of their effort, the
18 progress of the technology as it applied to main
19 memory, and did not do a lot of consideration into the
20 impact it would have on the manufacturing
21 infrastructure to try to bring us up to those kind of
22 production volumes.

23 Q. Did you have any firsthand personal knowledge
24 of anything Rambus had directly told Intel in meetings
25 that led up to Intel's selection of Rambus?

1 A. I have knowledge of a meeting in December where
2 Intel and Rambus were both present at Micron.

3 Q. And that was after Intel had chosen Rambus;
4 correct?

5 A. Correct.

6 Q. Okay. My question was different.

7 My question was: Do you have any direct
8 personal knowledge of what Rambus was telling Intel in
9 the meetings that led up to Intel's selection of Rambus
10 in 1996?

11 A. My knowledge is through Intel.

12 Q. Your knowledge is what?

13 A. Through Intel. They disclosed things that had
14 been asked and said.

15 Q. You weren't at the meetings between Rambus and
16 Intel, were you?

17 A. No. I was in the meetings between Intel and
18 Micron.

19 Q. Okay. Now, do you see on the second page of
20 this exhibit the statement in the middle that says "The
21 attached e-mail"?

22 It says: "The attached e-mail lists the
23 questions we shall ask Rambus in the 9-12 meeting. All
24 consortium members will ask similar questions."

25 Do you see that?

1 A. Yes.

2 Q. Was it your understanding when you sent these
3 questions out that there was an agreement among the
4 consortium members to ask similar questions when Intel
5 visited them?

6 A. No. I don't believe that there was an
7 agreement.

8 Q. Okay. Now, Intel chose Rambus anyway; right,
9 despite these hard questions being asked of them?

10 A. Direct RDRAM was selected by Intel.

11 Q. Well, let's look at RX-808.

12 A. Is this one I have?

13 Q. I don't think so.

14 May I?

15 JUDGE McGUIRE: Go ahead.

16 BY MR. PERRY:

17 Q. Now, do you see these are minutes of another
18 SyncLink meeting, this one in December 1996?

19 A. Yes.

20 Q. And do you see there are three sessions listed,
21 December 3 in the morning, December 3 in the afternoon
22 and December 4? Do you see that?

23 A. Okay.

24 Q. And do you see that you're listed as attending
25 all three sessions?

1 A. Yes.

2 Q. I just have a couple of questions on the first
3 two pages of this exhibit.

4 Were you in fact present at the December 1996
5 SyncLink Consortium meeting?

6 A. I believe so.

7 Q. And the first statement attributed to
8 Mr. Tabrizi says: "It now seems likely that Intel
9 will choose Rambus. We need to decide how to
10 proceed."

11 Do you see that?

12 A. Yes.

13 Q. Was that your understanding as of
14 December 3 or 4, 1996?

15 A. Yes.

16 Q. And then the statement attributed to
17 Mr. Chen -- he was a Mitsubishi JEDEC representative;
18 right?

19 A. He attended JEDEC and he was with Mitsubishi.
20 I'm unsure whether he was their official JEDEC
21 representative or not.

22 Q. Well, the next statement at least in these
23 minutes says, "Need executive meeting among suppliers
24 to decide future of consortium."

25 Do you see that?

1 A. Yes.

2 Q. And then a little bit further down there's your
3 name; right?

4 It says, "Thanks to Terry Lee, excellent job on
5 signaling."

6 Do you see that?

7 A. Yes.

8 Q. And under that it says, "We need to get the
9 supplier executives together."

10 Do you see that?

11 A. Yes.

12 Q. And then one more statement a little bit
13 further down: "How many suppliers think we should
14 meet in Japan or Hawaii with executives of
15 corporations?"

16 And there was a hand vote on that question;
17 right?

18 A. Yes.

19 Q. And it says Micron voted yes in favor of such a
20 meeting; correct?

21 A. Yes.

22 Q. And you raised your hand and voted yes; right?

23 A. I don't know if I was the one who raised my
24 hand or not.

25 Q. You agree that it was either you or Kevin Ryan

1 who voted yes; right?

2 A. Well, from the minutes it's someone from
3 Micron. I think we were the two in attendance.

4 Q. Well, if you look on page 2, about eight lines
5 down, there's a reference to this executive meeting.

6 Do you see that?

7 Just go to that line, "Propose executive
8 meeting."

9 Do you see where it says, "Propose executive
10 meeting Friday, January 10, 1997, in Tokyo, with max
11 two people each company, executives"?

12 Do you see that?

13 A. Yes.

14 Q. And in fact such a meeting occurred on
15 January 10 in Japan?

16 A. I believe so. I'm not sure of the exact
17 dates.

18 Q. And in fact, prior to this December 1996
19 meeting, you had already arranged for Steve Appleton,
20 the CEO of Micron, to propose that kind of a meeting;
21 right?

22 A. I was requested to do so. I believe that was
23 the case for this meeting.

24 Q. Who requested you to arrange for Mr. Appleton
25 to propose such a meeting?

1 A. I believe Farhad Tabrizi was trying to get some
2 executive support and suggested that we might get Steve
3 to propose to also have an executive meeting to discuss
4 this issue.

5 Q. Did you talk to Mr. Appleton directly about
6 getting an e-mail or a letter from him proposing such a
7 meeting?

8 A. I don't recall if it was an e-mail or a phone
9 conversation or a face-to-face discussion.

10 Q. Well, let's look at that e-mail from
11 Mr. Appleton, and then we should probably take a
12 little, short break, if that's all right with you,
13 Your Honor.

14 JUDGE McGUIRE: Anytime. If you want to do it
15 now, we'll do it now.

16 MR. PERRY: Let's just do this one. It's
17 RX-801.

18 May I?

19 JUDGE McGUIRE: Yes.

20 BY MR. PERRY:

21 Q. And if you'll see about two-thirds of the way
22 down the first page -- and these were produced to us by
23 Hans Wiggers. You remember him being at SyncLink
24 meetings; correct?

25 A. Yes.

1 Q. And there appears to be an e-mail from
2 Mr. Tabrizi dated November 11 -- I'm sorry --
3 November 27, 1996 that says: "Gentlemen, I would like
4 to forward the following message that I received from
5 Mr. Steve Appleton, the president and CEO of Micron
6 Technologies."

7 And I'm not going to ask you anything about
8 Mr. Tabrizi's e-mail, but I will ask you about the
9 Appleton e-mail that appears on the next page.

10 MR. OLIVER: Objection, Your Honor. Could we
11 have some foundation as to whether Mr. Lee has seen
12 this document.

13 MR. PERRY: My first question was going to be
14 did he review it before now, did he ever write it, who
15 did, that kind of thing.

16 JUDGE McGUIRE: Go ahead.

17 BY MR. PERRY:

18 Q. Take a minute and read it to yourself.

19 A. Okay.

20 (Pause in the proceedings.)

21 Okay.

22 Q. Now, you certainly received this when it was
23 sent out to the SyncLink Consortium members; right?

24 A. I'm sure I would have.

25 Q. And did you also review it before it went out

1 to Mr. Tabrizi?

2 A. I probably did. I don't recall the exact
3 process that went about in this -- in creating this
4 e-mail.

5 Q. Did you help draft it?

6 A. I just said I don't recall exactly how -- what
7 the process was.

8 Q. Well, I'm not asking exactly how the process
9 worked. I'm asking you if you helped draft it.

10 A. If you mean by help drafted it did I either
11 provide input or did I proofread it? I probably did.

12 Q. Did you provide input?

13 A. I probably did.

14 Q. Did you talk to Mr. Appleton about the words
15 that were going to go into the e-mail to Mr. Tabrizi?

16 A. Again, I don't recall if there was an e-mail,
17 if there was a phone call or a face-to-face
18 discussion.

19 Q. When the e-mail went from Mr. Appleton to
20 Mr. Tabrizi, you understood that it was going to be
21 circulated then around DRAM manufacturers; right?

22 A. Yes, I did. In the consortium.

23 Q. In the SyncLink Consortium; right?

24 A. That's correct.

25 Q. And was the triggering event that motivated the

1 sending of this e-mail Intel's decision to choose
2 Rambus for the next-generation technology?

3 A. I'm not sure that Intel had made a decision at
4 this time or, if they had, whether they communicated
5 it. I don't think we were aware of their decision
6 until later in December.

7 I think the question that came up, as you saw
8 in the meeting minutes, is it seemed likely that they
9 would and should we consider these -- should we
10 continue these efforts or not. Considering the fact
11 that Intel platforms were going to use direct RDRAM, I
12 think that would be the triggering issue, if you will.

13 Q. So the triggering issue was an understanding
14 that Intel was about to choose Rambus; right?

15 A. Yeah, with that assumption in mind, the
16 triggering issue is what do we do with the consortium,
17 do we keep going forward or not.

18 Q. Okay. Just a few questions about this e-mail
19 from Mr. Appleton to Mr. Tabrizi.

20 In the first paragraph, Mr. Appleton states:
21 "I would first like to congratulate the participants of
22 the SyncLink Consortium on their progress and technical
23 achievements. The cooperation among the suppliers and
24 the sharing of resources toward a common goal is
25 probably unprecedented in the industry."

1 Did you agree with Mr. Appleton's statement
2 that the cooperation among the suppliers was
3 unprecedented in the industry?

4 A. From a technical standpoint, the progress we
5 made in terms of progressing the specification of
6 SLDRAM from roughly that first visit in August to that
7 time in November I believe was unprecedented in terms
8 of the technical progress.

9 Q. Did you believe that the cooperation among the
10 suppliers in the SyncLink Consortium was unprecedented
11 in any other way besides technical?

12 A. It was strictly a technical development.

13 Q. The next sentence says, "In consideration of
14 the recent developments in the DRAM industry, I would
15 like to emphasize the importance of the SyncLink
16 efforts."

17 Do you see that?

18 A. Yes.

19 Q. And you understood at the time the reference to
20 the recent developments to be Intel's looming decision
21 to choose Rambus; right?

22 A. I understand it to be a little more complicated
23 than that.

24 Q. Was that part of it?

25 A. Pardon me?

1 Q. Was that part of it?

2 A. Yes.

3 Q. In the third paragraph it says, "We also
4 believe the future health of the DRAM industry will
5 rely upon the suppliers' ability to generate new
6 intellectual property for high-frequency DRAMs."

7 Do you see that?

8 A. Yes.

9 Q. Did you agree with that statement at the time?

10 A. I agreed with I believe what he meant by that
11 statement.

12 Q. And what did you think -- well, strike that.

13 What basis did you have for understanding what
14 Mr. Appleton thought in that sentence?

15 Let me lay a foundation.

16 Had you talked to him about this sentence?

17 A. As I mentioned, I would have been involved in
18 that review process of reviewing it before it went out.
19 I don't recall if it was an e-mail discussion, a
20 telephone discussion or a face-to-face discussion.

21 Q. Did you have an e-mail, telephone or
22 face-to-face discussion with Mr. Appleton about the
23 meaning of that sentence?

24 A. I had one of those three about this document.
25 But I can't tell you sentence by sentence.

1 Q. So you don't know if you had any firsthand
2 personal knowledge about what Mr. Appleton meant by
3 that sentence, you just don't know one way or the
4 other?

5 A. I have firsthand knowledge of what was meant by
6 the content of the whole e-mail. I think we're getting
7 down to wordsmithing now, so...

8 Q. I'm just asking about that sentence.

9 Do you have any firsthand personal knowledge of
10 what was meant by Mr. Appleton in that sentence?

11 A. I believe I understood what was meant.

12 Q. I'm not asking about what you understood in
13 this question.

14 Do you have any firsthand personal knowledge
15 about what Mr. Appleton meant in this sentence?

16 A. I believe I do. I believe I understood what he
17 meant. Firsthand, I believe I understood what he
18 meant. Maybe I don't understand the question but --

19 Q. I'm not asking about your understanding. I'll
20 get there. But right now I'm asking about whether you
21 have firsthand personal knowledge of what Mr. Appleton
22 meant, in other words --

23 JUDGE McGUIRE: Maybe you should clarify what
24 you mean by that, Mr. Perry.

25 MR. PERRY: Thank you. I will.

1 BY MR. PERRY:

2 Q. Did you talk to Mr. Appleton about that
3 sentence?

4 A. I don't recall if there was a specific
5 discussion on that particular sentence.

6 Q. Did you have an e-mail discussion with
7 Mr. Appleton about that sentence?

8 A. It would be the same answer.

9 Q. Did you have a telephone call with him about
10 that sentence?

11 A. Same answer.

12 Q. Did you draft the sentence?

13 A. I don't recall.

14 Q. Do you know who did?

15 A. I don't recall if Steve drafted it or I
16 provided a rough draft or I reviewed his.

17 Q. Look in the last paragraph.

18 Do you see in the third sentence -- I'm
19 sorry -- the second -- yeah, the third sentence -- it
20 says "We also feel"?

21 "We also feel that the success of SyncLink
22 relies on the broad support of all DRAM suppliers."

23 Do you see that?

24 A. Yes.

25 Q. "For this reason, we encourage a meeting of

1 DRAM supplier executives to discuss how the DRAM
2 industry can provide uniform support for SyncLink."

3 Do you see that?

4 A. Yes.

5 Q. And is it your testimony that it was
6 Mr. Tabrizi who first suggested to you that
7 Mr. Appleton suggest a meeting of DRAM supplier
8 executives?

9 A. Yes.

10 Q. And who did you pass that request on to?

11 A. It would have been passed it on to Steve.

12 Q. By you directly?

13 A. Probably.

14 Q. Was that in writing?

15 A. I don't recall.

16 Q. Did you ask him to go to Japan to that
17 meeting?

18 A. Steve did not go to that meeting. I don't
19 recall if he was one of the people that were asked.
20 They requested an executive attend.

21 Q. You went to that meeting; right?

22 A. Yes.

23 Q. Well, let's look back for just a second,
24 finish up the minutes of the December '96 meeting, to
25 RX-808.

1 Do you have that in front of you?

2 A. Yes.

3 Q. The minutes of the December 1996 SyncLink
4 meeting?

5 A. Yes.

6 Q. On the top of the second page, it says: "Many
7 suppliers are paranoid over the process of a single
8 customer, e.g., Intel, having control of the market.
9 We can't resist such a possibility individually. We
10 need some united strategy."

11 Do you see that?

12 A. Yes.

13 Q. Was that Mr. Tabrizi who said those things at
14 the meeting?

15 A. It's not clear from the notes here, from the
16 minutes, whether it was him.

17 Q. Was it you?

18 A. I don't believe it was.

19 Q. Did you agree with those sentiments?

20 A. Not exactly.

21 MR. PERRY: If we could take a break,
22 Your Honor, this would be a good time.

23 JUDGE McGUIRE: All right. I want to ask about
24 that sentence. I'm not clear exactly from what it says
25 as to what it means. Maybe you could I guess clarify

1 that, you know, to your own understanding of that
2 sentence, Mr. Lee.

3 What did that mean to you?

4 THE WITNESS: Okay. We had customers -- again,
5 a little background if I can.

6 We had customers who were concerned that they
7 didn't have equal access to new memory technology
8 because at that time direct Rambus was under NDA and
9 there were certain customers who didn't necessarily use
10 Intel processors and had no communication with them,
11 customers such as Apple and Sun and companies like
12 that.

13 So there was a concern from customers that
14 Intel would be able to control the future memory
15 technology and not give equal access to the
16 information.

17 So there was a concern from our customers to us
18 about this problem, so the part of the reason why I
19 don't completely agree with this is it says "many
20 suppliers are paranoid." If they are, it's through the
21 concerns of their customers.

22 JUDGE McGUIRE: All right. Mr. Perry, do you
23 want to follow up?

24 MR. PERRY: If I could, Your Honor.

25 JUDGE McGUIRE: Go ahead.

1 BY MR. PERRY:

2 Q. And those customer concerns were sufficiently
3 substantial in your view that you agreed that the
4 manufacturers needed a united strategy to deal with
5 them; is that right?

6 A. No. I don't necessarily agree with that.

7 Q. Okay. So did you do anything to correct any
8 misimpression that might be left by these statements in
9 the minutes?

10 A. I don't recall if there was any rebuttal during
11 the meeting discussion. If you mean by correcting
12 minutes -- I don't think I did anything there, because
13 if the minutes accurately stated what was said, they
14 may not need correction.

15 Q. Okay. And then the line just below what I read
16 talks about an Internet reflector. Do you see that?

17 It says, "supply@hea.com is the supplier
18 reflector, maintained by Tabrizi."

19 Do you see that?

20 A. Yes.

21 Q. And you understood that to be a mechanism
22 whereby e-mails could be sent around the different DRAM
23 manufacturers; is that right?

24 A. It's essentially a distribution list, if you
25 will. It's a reflector. You can send it to one name

1 and it distributes out, but it's essentially a
2 distribution list of people I believe that were just in
3 the SyncLink Consortium.

4 Q. So that means that one DRAM manufacturer who
5 was a consortium member could send an e-mail to that
6 reflector and it would be sent to whoever was on the
7 distribution list; right?

8 A. Right.

9 MR. PERRY: Okay. If we could take a break,
10 Your Honor.

11 JUDGE McGUIRE: Okay. Let's take a ten-minute
12 break.

13 (Recess)

14 (DX Exhibit Number 118 was marked for
15 identification.)

16 JUDGE McGUIRE: This hearing is in order.
17 You may proceed, Mr. Perry.

18 MR. PERRY: Your Honor, if I could just give
19 you a time estimate. I believe we will definitely
20 need a lunch break, but I believe I will be less than
21 the 5:15 stop yesterday but perhaps 3:00, more likely
22 4:00.

23 JUDGE McGUIRE: Okay. Very good. You're
24 talking about in terms of your cross?

25 MR. PERRY: Mine.

1 JUDGE McGUIRE: Okay.

2 MR. PERRY: Yes.

3 BY MR. PERRY:

4 Q. Mr. Lee, if you could look back at that
5 December 3, 1996 SyncLink Consortium meeting minutes
6 for just a second. That's RX-808.

7 Do you have that?

8 A. Yes.

9 Q. And look on page 3.

10 Do you see about, oh, two-thirds of the way
11 down the page there's a statement attributed to you?
12 It says "T. Lee."

13 A. I see a couple.

14 Q. It says, "T. Lee: Consortium needs its own
15 attorney to handle press releases, contracts, antitrust
16 concerns."

17 Do you see that?

18 A. Yes.

19 Q. Did you explain in the meeting itself what
20 antitrust concerns you were talking about?

21 A. I don't recall the antitrust concerns, no.

22 Q. Do you believe that you explained in the
23 meeting what your concerns were?

24 A. I'm sorry. I don't recall that statement.

25 Q. Had you talked prior to this time with

1 nonlawyers at Micron about any antitrust concerns
2 involving the SyncLink Consortium?

3 A. No.

4 Q. Well, let's move on if we could to that
5 January 1997 meeting of the SyncLink Consortium
6 executives in Tokyo where you were present, and I'll
7 show you a proposed agenda. That's RX-845.

8 May I?

9 JUDGE McGUIRE: Yes.

10 BY MR. PERRY:

11 Q. And the first page of this appears to be a
12 proposed agenda, and I can tell that in part because
13 the second page appears to be an e-mail or a letter
14 that describes a proposed agenda.

15 Take a look at it and see if you were one of
16 the folks who got this in December 1996 from
17 Mr. Tabrizi.

18 A. Yes, I did.

19 Q. And the proposed agenda on the first page in
20 the second item, it references you.

21 Do you see that?

22 A. Yes.

23 Q. It says "Technical overview and progress
24 report, Terry Lee, SyncLink (Micron)."

25 Do you see that?

1 A. Yes.

2 Q. And you went to the Tokyo executive meeting in
3 January 1997; right?

4 A. Yes.

5 Q. Did you give a presentation?

6 A. Yes.

7 Q. Gene Cloud went along with you; right?

8 A. I believe it was Gene.

9 Q. What was his position at Micron at the time?

10 A. He was vice president of marketing.

11 Q. Was he your boss?

12 A. He was my eventual boss. I reported to Jeff,
13 who reported to Gene.

14 Q. Mr. Mailloux reported to Mr. Cloud at the
15 time?

16 A. Yes. I believe so.

17 Q. And who did Mr. Cloud report to?

18 A. Steve Appleton.

19 Q. Let me show you something that relates to that
20 meeting that was marked at your deposition as RX-849.
21 Actually it's been marked for trial as RX-849.

22 May I?

23 JUDGE McGUIRE: Go ahead.

24 BY MR. PERRY:

25 Q. The cover says "SyncLink Consortium Executive

1 Meeting, Yokohama, Japan, January 10, 1997."

2 Do you recognize these to be a collection of
3 slides or PowerPoint presentations that were given to
4 the various DRAM manufacturer executives at that
5 meeting?

6 A. Yes.

7 Q. And if you look on the second page of the
8 agenda -- we can pull up the bottom slide -- and that
9 says "Discussion of SyncLink advantages - Terry Lee."

10 Do you see that?

11 A. Yes.

12 Q. And there's two bullet points under that,
13 technical advantages and intellectual property
14 advantages.

15 Do you see that?

16 A. Yes.

17 Q. Now, in the proposed agenda that we had seen
18 before, I didn't see anything about intellectual
19 property advantages in the proposed agenda next to your
20 name. Perhaps I was just missing it.

21 Do you know why -- well, strike that.

22 Had someone asked you to talk about
23 intellectual property advantages at this meeting?

24 A. I believe Farhad Tabrizi set up the agenda.

25 Q. And did he ask you in particular to talk about

1 intellectual property advantages to SyncLink?

2 A. I believe he created an agenda of some items
3 and then selected or asked people to present sections
4 of the agenda.

5 Q. Do you see that there's some page numbers in
6 the lower left corner and this one says "page 2"?

7 A. Yes.

8 Q. Let's look at page 23 if we could in the lower
9 left corner.

10 And if we could pull up the bottom slide, it
11 says "SyncLink Advantages" and it's dated January 10,
12 1997; right?

13 A. Yes.

14 Q. And is that a slide that you presented as part
15 of your presentation to the executives?

16 A. Yes.

17 Q. And the next page are two slides that you
18 prepared and presented as part of your presentation?

19 A. Yes.

20 Q. And the next page, page 25, has two slides that
21 you prepared and presented as part of your
22 presentation?

23 A. Yes.

24 Q. And the next page, page 26 of the exhibit, are
25 two slides that you prepared and presented as part of

1 your presentation to the January 10 meeting of
2 executives?

3 A. Yes.

4 Q. And let's look at the top one. It says "Other
5 SyncLink Advantages."

6 Do you see that?

7 A. Yes.

8 Q. The first one, the first bullet point says
9 "nonproprietary."

10 What message were you intending to deliver to
11 the DRAM manufacturer executives you were talking to
12 when you described SyncLink as nonproprietary?

13 A. By that message I meant that our customers were
14 able to have access to this without NDAs. It was
15 freely -- information was freely available to anybody.

16 Q. So that message, your message from -- when you
17 were talking about nonproprietary, that didn't have
18 anything to do with the royalties that people might
19 have to pay in the future to make, use or sell the
20 SyncLink device; is that right?

21 A. Yes. Mine had to do with basically open, open
22 spec.

23 Q. All right. Well, the third point says "Lower
24 cost (yield and license fees)."

25 Do you see that?

1 A. Yes.

2 Q. Was part of that message at least something
3 about license fees?

4 A. Yes.

5 Q. And you were saying they'd be lower in SyncLink
6 for people who wanted to make, use and sell the devices
7 than they would be if people were making RDRAM? Is
8 that the message you were sending?

9 A. The message I was sending there was that we
10 felt SLDRAM would be lower cost and that would be due
11 to an improved yield for the device and that there was
12 no structure in place for an automatic license fee, if
13 you will, such as in the case of Rambus.

14 Q. Were you trying to say there would be no
15 license fees to anybody who wanted to use intellectual
16 property covering any portion of the SyncLink device?

17 A. I don't think I'd have been really qualified or
18 had the authority to say that.

19 Q. Well, the fourth bullet point you presented
20 says "industry intellectual property."

21 When it says "industry," that's a reference to
22 DRAM manufacturers; right?

23 A. That's correct.

24 Q. And what you were saying is that if the DRAM
25 manufacturers would hold intellectual property related

1 to the SyncLink device; right?

2 A. Yes.

3 Q. And you were saying that was an advantage to
4 SyncLink; right?

5 A. Yes.

6 Q. And then the next slide down at the bottom
7 talks about intellectual property issues.

8 Do you see that?

9 A. Yes.

10 Q. The second bullet point says, "Future
11 high-speed DRAM patents will be developed by those
12 companies defining/developing new high-speed DRAMs -
13 what companies will this be?"

14 Do you see that?

15 A. Yes.

16 Q. Now, you knew at the time that Rambus was one
17 of the companies that was defining and developing new
18 high-speed DRAMs; right?

19 A. That's correct.

20 Q. And was your question to the audience: Will
21 your company also be doing that? Is that the question
22 you're presenting?

23 A. Yeah, my question was which companies are going
24 to be involved in defining and developing new
25 high-speed DRAMs going into the future.

1 Q. And the third bullet point says, "Future
2 high-speed DRAM generations may use additional
3 intellectual property and have higher licensing fees -
4 your company may have a permanent IP disadvantage."

5 Do you see that?

6 A. Yes.

7 Q. What message were you delivering?

8 A. The background of that is that at the time
9 that direct RDRAM came out, the solutions that Intel
10 had seen in the industry were not as technically
11 advanced as where they wanted to be with their
12 next-generation platform. That's the message Intel
13 sent to us.

14 And so the concern is that in the future, if we
15 didn't develop some more techniques and more, you know,
16 sophisticated high-speed DRAM techniques, that in the
17 future we would not be involved with the development of
18 future technology with Intel, and we found that to be a
19 disadvantage because of the fact we weren't involved
20 with direct RDRAM, didn't consider many of the
21 manufacturing issues.

22 Q. Were you also concerned about not having IP,
23 intellectual property, that you could use to
24 cross-license with Rambus?

25 A. I don't believe that was the concern.

1 Q. Didn't you understand within Micron -- putting
2 this meeting at SyncLink aside for a moment, didn't you
3 understand within Micron that there was an effort made
4 to obtain patents that lay in the development path of
5 Rambus as you saw it?

6 A. I understand that the purpose of the patents
7 was to lay in the path to enable inventions for future
8 DRAM technology.

9 Q. Didn't you understand that there was an effort
10 within Micron at some point in time to obtain patents
11 that Micron hoped would be in the development path of
12 the Rambus DRAM devices?

13 A. How do I know what the development path of
14 Rambus DRAM devices would be in the future?

15 MR. PERRY: Your Honor, I don't believe that's
16 responsive to the question.

17 JUDGE McGUIRE: I'll strike the answer. Could
18 you restate it.

19 And you answer the question as asked, Mr. Lee.

20 BY MR. PERRY:

21 Q. Do you have the question in mind?

22 A. Could you repeat it, please.

23 MR. PERRY: I'll ask the reporter to read it.

24 (The record was read as follows:)

25 "QUESTION: Didn't you understand that there

1 was an effort within Micron at some point in time to
2 obtain patents that Micron hoped would be in the
3 development path of the Rambus DRAM devices?"

4 THE WITNESS: And I'll have to answer no as the
5 way that was stated.

6 BY MR. PERRY:

7 Q. Were you ever aware within the
8 SyncLink Consortium of any efforts that were ongoing or
9 that had been made to avoid Rambus intellectual
10 property in the development of the SyncLink device?

11 A. I'm aware that there were efforts to avoid IP
12 in general, whosever it was.

13 Q. Were you aware as of this meeting in
14 January 1997 of any statements in the past by Rambus
15 that SyncLink might infringe Rambus intellectual
16 property?

17 A. I don't believe I was aware of those
18 statements.

19 Q. Had Terry Walther ever told you that he had
20 been present at a SyncLink meeting where someone made
21 the statement: Rambus has 16 patents already with more
22 pending. Rambus says their patents may cover our
23 SyncLink approach?

24 Did Mr. Walther ever tell you that?

25 A. I don't recall.

1 Q. Did you ever have any discussions, prior to
2 this January 1997 presentation to DRAM manufacturer
3 executives, with anyone at Micron where that person
4 told you that they had heard at a SyncLink meeting that
5 Rambus had said their patents may cover SyncLink?

6 A. I don't recall that specifically. We felt we
7 had a very different device than Rambus.

8 Q. Who's "we" in that answer?

9 A. Micron. I think the question was about Micron
10 internal.

11 Q. Did any SyncLink Consortium member ever tell
12 you that Rambus had stated to SyncLink that the
13 SyncLink device may infringe Rambus intellectual
14 property?

15 A. I don't remember a conversation like that.

16 Q. Prior to being deposed in various lawsuits, had
17 you ever seen written in SyncLink Consortium minutes
18 the statement that Rambus had asserted that the
19 SyncLink device may infringe Rambus intellectual
20 property?

21 A. I don't recall that information.

22 Q. Did anyone tell you prior to this January 1997
23 presentation that you made that Richard Crisp had
24 informed SyncLink that both RamLink and SyncLink may
25 violate Rambus patents that date back as far as 1989?

1 A. I don't recall that information, no.

2 Q. Did anyone at this January 1997 executive
3 meeting say in connection with your presentation that
4 they had heard Rambus assert that the SyncLink device
5 might be infringed by -- might infringe Rambus
6 intellectual property?

7 A. I don't recall all the discussions that took
8 place at the executive meeting. Rambus certainly never
9 made that statement to Micron.

10 Q. You don't know -- you weren't present for every
11 time there was a Rambus person and a Micron person in
12 the same room, were you?

13 A. No.

14 Q. And you weren't at JEDEC meetings where Rambus
15 made statements about its intellectual property, were
16 you?

17 A. I don't recall if there were statements made by
18 Rambus about any IP while I was there. I don't recall
19 that.

20 Q. And you didn't participate in face-to-face
21 licensing negotiations between Micron and Rambus;
22 correct?

23 You weren't in the room when those license
24 negotiations were going on with Rambus; correct?

25 A. I was involved with part of it when there was a

1 meeting prior to the actual financial discussion.

2 Q. And that's the --

3 A. That included Rambus.

4 Q. What's the date of that meeting?

5 A. I believe that was roughly December of '96.

6 Q. That was a technical meeting?

7 A. Primarily technical.

8 Q. Well, getting back to this SyncLink Consortium
9 presentation, the other item on this page that we
10 haven't talked about under Intellectual Property
11 Issues, it says, "SyncLink is filing on six patents,
12 several more patent filings are being pursued."

13 Do you see that?

14 A. Yes.

15 Q. And you were the named inventor on one of those
16 patents for the SLDRAM pinout; right?

17 A. I don't recall what the specific patents were
18 that they filed.

19 Q. But you understand that for a patent
20 application to be filed an inventor needs to fill out
21 an affidavit generally saying that they're one of the
22 inventors on the patent?

23 A. Yes.

24 Q. Let's go back if we could to page 4 of this set
25 of slides.

1 And do you see that that says -- page 4. Thank
2 you.

3 It says "SyncLink Overview, Farhad Tabrizi."

4 Do you see that? Page 4 in the lower left
5 corner?

6 A. Yes.

7 Q. Okay. And were you present for Mr. Tabrizi's
8 presentation at this January 1997 meeting?

9 A. Yes.

10 Q. Look on page 6. The bottom slide says
11 "Patents."

12 Do you see that?

13 One of the patents that's listed there is
14 system architecture.

15 Are you one of the named inventors on that
16 patent?

17 A. I don't recall which patents I was named
18 inventor on. I don't see one here about packaging that
19 you referred to earlier.

20 Q. Would you look, please, at page 27, the lower
21 left corner.

22 I'm sorry. 26. 26, right. 26. Sorry.

23 You're on 26, Mr. Lee?

24 A. Yes.

25 Q. That's the one we just talked about?

1 A. Yes.

2 Q. And you said you prepared these slides.

3 I want you to turn now to page 27, and you
4 prepared and presented those two slides as well?

5 A. Yes.

6 Q. Now, let's pull up the top one.

7 That says "Intellectual Property Issues
8 (continued)." Does that? C-O-N-T?

9 A. Yes.

10 Q. And C-O-N-T meant continued?

11 A. From the prior slide.

12 Q. Right.

13 And that says, "Could the consortium be used
14 to:

15 "Challenge existing patents?

16 "Create new patents necessary for the successor
17 to nDRAM?

18 "Address DRAM business legal concerns?"

19 Do you see that?

20 A. Yes.

21 Q. And let me talk about that middle bullet
22 first.

23 What you told the member company executives,
24 what you asked them is a question: Could the
25 consortium be used to create new patents necessary for

1 the successor to nDRAM?

2 Do you see that?

3 A. Yes.

4 Q. And the question you were asking them was do
5 you want to try to lay down patents in the development
6 path of the Rambus device; right?

7 A. That's incorrect.

8 Q. What you were saying to them was, at some
9 point if Rambus becomes the next-generation memory
10 device, there's going to be a successor to Rambus, and
11 you wanted the industry to hold the IP, the patents,
12 that Rambus would need to make that next-generation
13 device?

14 A. That's incorrect.

15 Q. Is that what you were saying?

16 A. No. Your statement is incorrect.

17 Q. Well, the first question, it says, "Could the
18 consortium be used to challenge existing patents?"

19 Do you see that?

20 A. Yes.

21 Q. Was part of that question about Rambus'
22 patents?

23 A. The whole statement, the whole foil was to --
24 was kind of a brainstorming as to what we wanted to do
25 with this consortium. It was the first time we had

1 such kind of a group, and the question that we were
2 asking the executives is what do we want to do, should
3 we do anything here regarding the patents, do we want
4 to challenge patents out there, do we want to create
5 new patents, what should we do with this legal entity.

6 Q. Well, you had seen from Mr. Mailloux's
7 December 1996 e-mail that he at least felt that there
8 were many Rambus patents that were invalid because of
9 prior art. Do you remember that statement?

10 A. His statement was based upon the information
11 that Kevin Ryan and I had given to him which we talked
12 about earlier, so I don't think that's --
13 characterization is exactly what I stated.

14 Q. You saw that Mr. Mailloux had told the CEO of
15 Micron in Exhibit RX-829 that we think many Rambus
16 patents read on prior art or other patents. Do you
17 remember that statement in the memo from Mr. Mailloux
18 to Mr. Appleton?

19 A. No.

20 Q. Do you remember it?

21 A. I remember the statement.

22 Q. Right.

23 And then one month later to the day, you
24 prepare and present a slide that you delivered to DRAM
25 manufacturer executives that said, "Could the

1 consortium be used to challenge existing patents?"

2 That's what you said; right?

3 A. That's correct.

4 Q. And weren't you saying at least in part to the
5 DRAM manufacturer executives that this consortium might
6 be useful in challenging Rambus patents?

7 A. No. This says "existing patents." There's no
8 statement of Rambus here.

9 Q. Didn't you anticipate that litigation against
10 Rambus might be necessary as of the time you gave this
11 presentation?

12 A. No. I don't recall that.

13 Q. The clip art you used is a picture of a judge
14 in a wig.

15 Do you see that?

16 A. Yes.

17 Q. Why did you use that?

18 A. Because it's a legal discussion. It's about
19 intellectual property, so that's a legal issue, isn't
20 it?

21 Q. Well, you understood at that time that judges
22 don't decide whether a patent should be issued; right?

23 A. No, actually I don't understand that.

24 Q. You understand the patent office issues
25 patents?

1 A. I understand that.

2 Q. You think the patent office is staffed with
3 judges?

4 A. I really don't know.

5 Q. Okay. You were talking about litigation here
6 in this message, weren't you, you were talking about
7 lawsuits?

8 A. No.

9 Q. When it says, "Could the consortium be used to
10 challenge existing patents," was that a question about
11 whether or not the consortium could bring lawsuits?

12 A. I'm really -- I think I'm really talking about
13 patents here, strictly about patents.

14 Q. Okay. You didn't understand that challenges to
15 patents sometimes involve lawsuits? Did you understand
16 that at the time?

17 A. I understand that there is a process that you
18 can litigate against a patent.

19 Q. Okay. Well, let's talk about the third
20 question you asked: Could the consortium be used to
21 address DRAM business legal concerns?

22 Do you see that?

23 A. Yes.

24 Q. And that question was could the consortium get
25 around the antitrust laws and allow the supplier

1 manufacturer -- the supplier executives to talk to each
2 other about issues they might not be able to talk to
3 otherwise -- talk about otherwise?

4 A. No, sir.

5 Q. What were the DRAM business legal concerns that
6 you were talking about in this message?

7 A. I don't recall the specifics. It was kind of
8 a broad topic. I never had any discussions about DRAM
9 creating some sort of scenario that you just
10 described.

11 Q. You had raised at the prior SyncLink Consortium
12 meeting an issue about the need for lawyers to give
13 antitrust advice. Do you remember seeing that?

14 It's in the minutes. Do you remember seeing
15 that in the minutes?

16 A. I remember seeing something different than what
17 you stated.

18 Q. It says "antitrust concerns"?

19 A. Right.

20 Q. You had raised a question about the need for a
21 lawyer to advise the consortium on antitrust concerns,
22 correct, at the December meeting; right?

23 A. I don't think what I put in there was quite
24 that -- can I refer to that?

25 Q. You can refer back to the minutes? Is that

1 what you want to see? Sure.

2 Do you see the reference to antitrust
3 concerns?

4 A. Yeah. What it says is: "Consortium needs it
5 own attorney to handle press releases, contracts,
6 antitrust concerns."

7 Q. So you had raised an issue at the prior
8 consortium meeting about whether the consortium needed
9 an attorney to handle antitrust concerns; right?

10 A. Correct.

11 Q. And this reference in this slide in
12 January 1997 where it says "Could the consortium be
13 used to address DRAM business legal concerns," that was
14 at least in part about those antitrust concerns?

15 A. I don't recall what the specifics were of that
16 statement.

17 Q. Okay. Well, look down at the slide on the
18 bottom of page 27 where it says "Technical Summary."
19 The third bullet -- I'm sorry -- the fourth bullet:
20 SyncLink should continue to be supported to establish
21 future intellectual property and to protect the future
22 of the DRAM industry.

23 Do you see that?

24 A. Yes.

25 Q. And by "DRAM industry" you meant the

1 manufacturers; right?

2 A. Yes, I believe that's what was intended.

3 Q. And what you were saying there is that the
4 manufacturers should jointly support SyncLink in order
5 to establish intellectual property that would cover
6 future high-bandwidth, high-speed DRAM devices?

7 A. So we could develop innovation for future DRAM
8 products.

9 Q. Well, you can do innovation without getting
10 patents on it; right?

11 A. I think the purpose there is to protect the
12 work that was done so that somebody else wouldn't
13 assert a patent against the work that we had done.

14 Q. So that if they did, you would have a patent
15 that would be required for a cross-license; correct?

16 A. So we'd have a patent to defend the work that
17 we'd done.

18 Q. Did you believe as of January 1997 that Rambus
19 had been stealing the intellectual property of the
20 SyncLink or RamLink working groups?

21 A. I'm not sure I understand.

22 Q. Did you ever hear, prior to this time, did you
23 ever hear anybody suggest in a SyncLink meeting that
24 Rambus had stolen some ideas from RamLink or SyncLink?

25 A. I don't think I ever heard that, no.

1 Q. Okay. And then it says "to protect the future
2 of the DRAM industry."

3 What was it about the intellectual property
4 that you thought the DRAM manufacturers should have
5 covering future high-speed DRAMs that would protect the
6 future of the DRAM industry in your view?

7 A. Yeah. This goes back to my prior statement
8 that going forward we need to provide more innovative
9 solutions so that -- Intel was trying to push the
10 envelope, if you will, in terms of technology for
11 high-speed DRAMs, and so for us to participate in that
12 development with Intel in the future, we had to create
13 innovation.

14 Q. So that didn't refer at all to intellectual
15 property; right?

16 A. Pardon me?

17 Q. It just meant innovation; you weren't referring
18 to intellectual property?

19 A. Well, my understanding is what the innovation
20 we'd need to file patents to protect that work.

21 Q. Had somebody told you that?

22 A. I don't recall a specific discussion.

23 Q. Okay.

24 A. If I had gotten any information like that, it
25 probably would have been through our counsel.

1 Q. Well, as I said before, I'm not asking for your
2 conversations with counsel.

3 A. Okay.

4 Q. Why don't you look on page 38. I'm sorry.
5 It's actually page 43 in the lower left-hand corner. I
6 got confused by the page numbers.

7 Do you see the bottom slide says "Discussion of
8 Long-Term DRAM Industry Outlook if SyncLink Is Not
9 Successful"? Do you see that?

10 A. Yes.

11 Q. And if you'll look back on page 3 of the
12 exhibit, it says that that topic is going to be covered
13 by Farhad Tabrizi.

14 Do you see that on the agenda?

15 It's on the screen. It says "Discussion of the
16 Long-Term DRAM Industry Outlook if SyncLink is not
17 Successful -- Farhad Tabrizi."

18 Do you see that?

19 A. Yes.

20 Q. Did Mr. Tabrizi present these slides?

21 A. I believe he did.

22 Q. And if you'll look on page 44, it starts with
23 historical events. Do you see that?

24 And then after these historical events it says,
25 "What is next?"

1 And Mr. Tabrizi presented that slide; right?

2 A. Yes, I believe so.

3 Q. And then the slide at the bottom says "Possible
4 future scenarios if SyncLink is not the next-generation
5 memory solution."

6 Do you see that?

7 A. Yes.

8 Q. So is it correct that as of this time,
9 January 10, 1997, there was still the prospect that
10 Intel would change its mind and choose SyncLink
11 instead of Rambus for the next-generation memory
12 solution?

13 A. Do you mind if I read this?

14 Q. Sure.

15 MR. OLIVER: Your Honor, if I could just ask
16 for clarification.

17 You're asking this witness' understanding?

18 MR. PERRY: Yes.

19 (Pause in the proceedings.)

20 THE WITNESS: Okay. So the question again?

21 MR. PERRY: May I ask the reporter to read it
22 back?

23 JUDGE McGUIRE: Yes. Go ahead.

24 (The record was read as follows:)

25 "QUESTION: So is it correct that as of this

1 time, January 10, 1997, there was still the prospect
2 that Intel would change its mind and choose SyncLink
3 instead of Rambus for the next-generation memory
4 solution?"

5 MR. OLIVER: Your Honor, again, subject to the
6 same clarification that it's the witness'
7 understanding.

8 JUDGE McGUIRE: Noted.

9 THE WITNESS: Okay. Regarding the question,
10 Intel had already chosen the solution at this time, so
11 I believe at this point we knew their decision was made
12 and we were working on licensing negotiation.

13 So I don't think there was an understanding
14 that Intel was going to change their mind.

15 BY MR. PERRY:

16 Q. When Mr. Tabrizi presented this slide and
17 talked about possible future scenarios if SyncLink is
18 not the next-generation memory solution, didn't he
19 state in substance that he was going to talk about the
20 dangers that awaited the DRAM industry if Intel didn't
21 change its mind?

22 A. I'm not sure he meant that really. Intel had
23 chosen direct RDRAM, but we had other customers asking
24 for different kind of products, so I think that the
25 Intel solution of direct RDRAM was strictly for the

1 Intel usage.

2 Q. Didn't you hear at SyncLink meetings people say
3 in substance that Intel wouldn't change its mind unless
4 Rambus failed?

5 A. What I recall is that there was some people who
6 were concerned that Rambus may fail for technical
7 issues or that Rambus may fail to penetrate the market
8 space that Intel planned on due to cost issues.

9 Q. And didn't you hear people say that if that
10 happened, Intel might change its mind and choose a
11 different next-generation memory device?

12 A. I don't -- what I guess the problem I'm having
13 with the question is you're saying change their mind
14 and I don't -- I don't think I heard that. But it is
15 possible that if it failed, then they would start using
16 more PC100, let's say, or they'd move on to the next
17 technology. I don't think that would decommit them
18 from the decision that they were going to use direct
19 RDRAM.

20 Q. And one of the things Mr. Tabrizi said to this
21 group of DRAM executives in January 1997 was that if
22 SyncLink was not the next-generation memory solution,
23 the DRAM manufacturers would lose control of
24 specification and the gross margins will decline.

25 Do you see that statement?

1 A. I see it.

2 Q. And you were present when he made it?

3 A. I was present when we did this presentation.

4 Q. Did he explain how gross margins would decline
5 if Intel continued down the path of using Rambus as the
6 next-generation memory device?

7 A. I don't recall. To be honest, I don't
8 completely understand this first bullet.

9 Q. Well, look at the third bullet.

10 Did Mr. Tabrizi say that if SyncLink was not
11 the next-generation memory solution, Intel would obtain
12 intellectual property for the nDRAM interface?

13 A. That's what the title and the bullet says.

14 Q. Did he express a concern at the meeting that
15 the DRAM manufacturers would not have the intellectual
16 property with respect to the Rambus device that Intel
17 had chosen?

18 A. I'm sorry. I really don't understand some of
19 what's in this foil.

20 Q. Okay. Well, look --

21 A. I don't recall the discussion on it.

22 Q. Let's look at the last bullet.

23 A. Okay.

24 Q. Did Mr. Tabrizi tell the assembled group of
25 DRAM manufacturer executives at this meeting that if

1 SyncLink was not the next-generation memory solution,
2 a single source CPU manufacturer and chipset
3 manufacturer would control the demand-supply
4 situation?

5 A. Okay. I remember some discussion on the last
6 couple bullets. And I believe he said that.

7 Q. And was that a reference to Intel?

8 MR. OLIVER: Objection, Your Honor.

9 Again, are we asking for this witness'
10 understanding?

11 JUDGE McGUIRE: Right. So noted.

12 MR. PERRY: I'm sorry.

13 BY MR. PERRY:

14 Q. Was it your understanding that was a reference
15 to Intel?

16 A. Yeah, my understanding of what he was
17 discussing in those last two bullets was I think he was
18 playing out or replaying a scenario that happened with
19 cache SRAM. He kind of described what happened in the
20 scenario of cache SRAM and what happened to the market
21 there, and that was something that Intel had, due to
22 their market power, had some control on, and I think he
23 was replaying that as a possible future scenario, as I
24 recall.

25 Q. And as you understood it, there was some

1 bitterness amongst some of the DRAM manufacturers about
2 what had happened when Intel had control over cache
3 SRAM?

4 A. I don't know if there was bitterness or not.
5 There was concern that it was a bad scenario and they
6 didn't want it to happen in the future.

7 Q. And one of the things that was bad about it was
8 the gross margins of the DRAM manufacturers were pretty
9 low on cache SRAM; is that your understanding?

10 MR. OLIVER: Objection, Your Honor. Lack of
11 foundation.

12 JUDGE McGUIRE: Sustained.

13 BY MR. PERRY:

14 Q. Did you have any understanding as to why it was
15 bad?

16 A. I understood it was bad because they were
17 gaining control of the supply in the market. I think
18 ultimately cache pretty much just went away and they
19 integrated into the processor, so I'm not sure about
20 what margins mean in that case.

21 Q. Okay. The last line on this slide, did
22 Mr. Tabrizi deliver the message to this assembled group
23 that if SyncLink was not the next-generation memory
24 solution, all DRAM companies will become foundries for
25 Intel?

1 A. I think he did.

2 Q. Now, Mr. Cloud joined you for that meeting;
3 correct?

4 A. I believe Gene was the one that attended.

5 Q. Did you take notes at that meeting?

6 A. I probably took some notes.

7 Q. And were your notes subsequently provided to
8 all the other DRAM manufacturers?

9 A. I don't recall the exact event. There were
10 three of these kind of meetings, and I know in one of
11 those meetings I had taken some notes of some feedback
12 the executives gave at the meeting and I sent that out
13 to be included in the meeting notes. I don't recall if
14 it's this meeting or not.

15 Q. Have you seen those notes in preparation for
16 your trial testimony?

17 A. I don't recall. I saw many documents.

18 Q. And you saw many documents in preparation for
19 today and yesterday?

20 A. Over the course between the depositions and
21 today, yesterday, there's obviously boxes of documents
22 here and I've seen some of them.

23 Q. Yes, there are.

24 Let me show you RX-855, some more
25 SyncLink Consortium meeting minutes, this time from the

1 January 14, 1997 meeting.

2 May I?

3 JUDGE McGUIRE: Go ahead.

4 BY MR. PERRY:

5 Q. Let me first establish that you were present
6 for the meeting and then I'll ask you to take a look at
7 the minutes.

8 Do you see that you're shown as attending the
9 January 14, 1997 morning and afternoon sessions as well
10 as the January 15 session?

11 A. Yes, I do.

12 Q. And you went to these meetings?

13 A. Yes.

14 Q. I'm going to ask you a few questions about the
15 first page if you want to take a minute and look at
16 it.

17 (Pause in the proceedings.)

18 A. Okay.

19 Q. Now, there's a reference to you that's about
20 five lines down. It says, "Terry Lee took notes on the
21 manufacturer comments at the Tokyo meeting, see scanned
22 doc."

23 Do you see that?

24 A. Yes.

25 Q. And then there's like a title of a PDF in

1 regards to that.

2 Do you see that?

3 A. Yes.

4 Q. And then about three lines below that there's a
5 statement: "Siemens was eloquent. No future RB road
6 map."

7 Now, when you read that, you understood RB to
8 be Rambus; is that right?

9 A. Yes.

10 Q. "No future Rambus road map. Letting one
11 company control industry is crazy."

12 Do you see that?

13 A. Yes.

14 Q. And then a little further on it says "Rambus
15 not acceptable."

16 Do you see that?

17 A. Yes.

18 Q. And were those statements based upon your notes
19 taken in the meeting about what Siemens, now Infineon,
20 was saying?

21 A. I don't know if those were taken from my notes
22 or that was comments that were made either repeated by
23 Siemens or by Farhad Tabrizi.

24 Q. Well, let me show you what I believe are your
25 notes of that meeting, RX-852.

1 May I?

2 JUDGE McGUIRE: Yes.

3 BY MR. PERRY:

4 Q. Now, this document was produced to us by
5 Mitsubishi.

6 Do you see that up at the top it says "From:
7 tlee@micron.com, To: GCLOUD, Subject: Supplier
8 comments"? Do you see that?

9 A. Yes.

10 Q. And then below that there's an e-mail that
11 appears to be from you to Mr. Tabrizi dated January 13,
12 1997?

13 A. Yes.

14 Q. If you'll just please look at this and confirm
15 that these are in fact your notes that you took at the
16 January 10, 1997 meeting in Tokyo, or Yokohama, of the
17 SyncLink executives.

18 (Pause in the proceedings.)

19 A. Okay. Yeah, these are mine.

20 Q. Now, you looked for these at Micron; right, and
21 you've been unable to find them?

22 A. I provided everything that I had on SyncLink
23 for the -- as part of the response to -- I don't know
24 what the legal term is -- but request for documents.

25 Q. Have you looked for these particular notes?

1 A. I've looked for everything.

2 Q. Did you look for these particular notes?

3 A. Let me be clear. Everything I had in SyncLink
4 I turned over.

5 Q. I'm not doubting that.

6 A. Okay.

7 Q. Did you look for these particular notes?

8 MR. OLIVER: Objection, Your Honor. Asked and
9 answered.

10 JUDGE McGUIRE: Sustained.

11 BY MR. PERRY:

12 Q. Did you notice at any point in time that there
13 was a reference in the SyncLink minutes that I showed
14 you to a PDF of your notes? Did you ever notice that
15 prior to today?

16 A. Not except for a deposition.

17 Q. And when you saw that in your deposition, did
18 you go back and try and find those notes?

19 A. I had already turned over everything I had.

20 Q. Did you ever search inside your PC, in your
21 stored e-mails, to look for --

22 A. Yes.

23 Q. -- this particular set of notes?

24 A. Yes. I turned over paper documents. I turned
25 over directories of file information. I turned over

1 subdirectories and e-mail.

2 Q. Let's look on page 2 of the exhibit. And let's
3 go down to where it says "Siemens," just the second one
4 up from the bottom.

5 And are these your notes that you're taking of
6 what a Siemens executive was saying at the January 10,
7 1997 SyncLink Consortium executive meeting in Japan?

8 A. Yes, it is.

9 Q. And what you wrote was: Control concerns are
10 realistic. No future Rambus II road map. Industry is
11 large dollars -- you have a dollar sign there. Does
12 that mean dollars?

13 A. I think so.

14 Q. Industry is large dollars, but letting control
15 go to one small company.

16 Did you understand "one small company" to refer
17 to Rambus?

18 A. I'm not sure.

19 Q. Well, Intel certainly wasn't a small company at
20 that point, was it, as you understood it?

21 A. I would agree.

22 Q. And look at the next to last sentence under
23 Siemens. It says, "Rambus is not acceptable."

24 Do you see that?

25 Is that something that the Siemens executive

1 said in front of this group of DRAM executives?

2 A. I believe so if my notes were accurate. One
3 concern I have with just making that statement is it
4 seems when I sent that that I was asking that they be
5 reviewed for correctness prior to sending it out to the
6 consortium, so...

7 Q. And you knew that at the January 14 consortium
8 meeting those notes were sent out; right?

9 A. Yes.

10 Q. You can't think of any other way how Mitsubishi
11 would have gotten ahold of them, can you?

12 A. I'm not sure I understand that question.

13 Q. Well, these came to us, this copy came to us
14 from Mitsubishi.

15 Did you ask Mitsubishi to review it in advance
16 of it being distributed to other people or did you ask
17 Mr. Cloud?

18 A. I asked Mr. Tabrizi, Mr. Chen of Mitsubishi,
19 and also Mr. Cloud.

20 Q. Okay. Do you know if Mr. Chen made any
21 suggested changes to your notes before they were
22 distributed out?

23 A. I don't recall. I certainly sent it to these
24 people to get it.

25 Q. Now, look back at page 1 of the January 14

1 consortium meeting. That's RX-855.

2 And do you see about five lines up from the
3 bottom -- 855 -- about five lines up from the bottom do
4 you see the reference to Siemens?

5 A. Yes.

6 Q. It says: "Siemens was eloquent. No future
7 Rambus road map."

8 Do you see that?

9 A. Yes.

10 Q. And does it look to you like the phrase "no
11 future Rambus road map" was taken from your notes?

12 A. It looks like the same content as in my notes.

13 Q. And do you see where it says below that
14 "Rambus not acceptable"? Does it look to you like
15 that was taken from your notes of the January 10, 1997
16 meeting?

17 A. Yeah, that looks like the same content as
18 well.

19 Q. Now, look on page 2 of the exhibit, please.

20 Oh, I forgot to ask you.

21 A. Can I clarify something? Is that acceptable?

22 Q. Is it in response to whether or not these
23 statements came from your notes?

24 A. Yes, it is.

25 Q. Okay. Well, yeah, do you think that the phrase

1 "Rambus not acceptable" -- go ahead. What is it you
2 want to say about that phrase?

3 A. Well, my concern with your question is you
4 asked whether this came from my notes and yet there's
5 information in this statement that is not included in
6 my notes, and so I don't know whether my notes are the
7 source of that or it's an independent source of notes
8 taken at the meeting.

9 Q. Okay. I was just asking about that phrase,
10 "Rambus not acceptable."

11 A. Okay.

12 Q. Do you know one way or the other whether that
13 came from your notes taken at that meeting?

14 A. I know I took notes to that statement. I don't
15 know if there were independent notes or whether they
16 came from my notes.

17 Q. Okay. Thank you.

18 Now, who from Siemens made that statement at
19 that January 10 meeting that Rambus was not
20 acceptable?

21 A. The gentleman's name is -- I'm going to have to
22 say Andreas Z.

23 Q. Was it Dr. Andreas von Zitzewitz?

24 A. That's it.

25 Q. Z-I-T-E-W-I-T-Z?

1 A. Yes.

2 Q. Now, let's look on page 2 of RX-855, the
3 January 14, 1997 SLDRAM Consortium meeting.

4 Is it your understanding that the
5 SyncLink Consortium had changed its name by this point
6 to the SLDRAM Consortium?

7 A. There was a name change at some point. I don't
8 recall the exact date that that occurred, but there was
9 a name change.

10 Q. But the name change was from SyncLink to
11 SLDRAM; right?

12 A. Correct.

13 Q. Well, there's a reference to you on page 2 of
14 these minutes about two-thirds of the way down. It
15 says "Terry Lee."

16 Do you see that?

17 A. Yes.

18 Q. Why don't you read that to yourself and I'll
19 have a question.

20 (Pause in the proceedings.)

21 A. Okay.

22 Q. Did you state in substance at the January 1997
23 meeting of the SLDRAM Consortium in Santa Clara,
24 California that the only way to prevent the sad past
25 history of being hurt by a single large customer from

1 happening again in the future is for the manufacturers
2 to have key patents for the next generation?

3 A. I believe so.

4 Q. Look on page 6.

5 Now, I'm going to ask you about a statement
6 that appears to be something that Farhad Tabrizi is at
7 least -- at least the minutes say he said. It's about
8 ten lines down.

9 Do you see "FT: Want more of DBG time"? Do
10 you see that?

11 A. Yes.

12 Q. And Mr. Tabrizi at the time was with Hynix, or
13 Hyundai; right?

14 A. Yes.

15 Q. Did you understand DBG to refer to
16 David Gustavson?

17 A. I did.

18 Q. And he was a professor type with Santa Clara,
19 he had been involved in the RamLink/SyncLink stuff?

20 A. Yeah. He could be characterized as that.

21 Q. It says, "Want more of DBG time, 75 percent or
22 100 percent, need his help to write patents and
23 articles, get minutes out fast, collect patentable
24 items from minutes, consider Rambus patent issues, need
25 to file patents daily."

1 Did Mr. Tabrizi say something in this
2 January 1997 meeting about needing somebody to consider
3 Rambus patent issues?

4 A. Apparently by the notes. I don't recall it
5 specifically.

6 Q. Do you know what particular Rambus patent
7 issues Mr. Tabrizi had in mind? Do you know one way or
8 the other?

9 A. I don't recall the specific comment at this
10 time.

11 Q. Okay. If you'll look on page 3 of these
12 minutes of the January 14, 1997 SLD RAM Consortium
13 meeting.

14 And the fourth line down, do you see the
15 fourth line down says, "FT says it seems clear their
16 decision was political, not technical"? Do you see
17 that?

18 A. Yes.

19 Q. You received copies of these minutes on a
20 regular basis; right?

21 A. I had access to them. I don't know if I always
22 received them.

23 Q. Okay. Do you remember now Mr. Tabrizi saying
24 in this meeting that Intel' decision was political and
25 not technical?

1 A. Do I remember that specific comment?

2 Q. Yeah.

3 A. No.

4 Q. Look a few lines down.

5 Do you remember him saying that losing control
6 of the specification means losing control of our
7 destiny?

8 A. I see that.

9 Q. Do you remember him saying that at the meeting,
10 Mr. Tabrizi?

11 A. I don't remember that specific discussion.

12 Q. Did somebody else say that in the meeting, that
13 losing control of the specification means losing
14 control of our destiny?

15 MR. OLIVER: Objection, Your Honor. He said he
16 doesn't recall the discussion.

17 JUDGE McGUIRE: Sustained.

18 BY MR. PERRY:

19 Q. Okay. If you could look down to the statement
20 that's just below that, referencing Mr. Rhoden, Desi.

21 Do you see that?

22 A. Yes.

23 Q. It says, "Desi: VLSI was once world-leading
24 chipset supplier, worked with Intel, cross-traded
25 engineers, Intel now in chipset business, VLSI out of

1 PC business now. This will happen again."

2 Do you remember Mr. Rhoden explaining at some
3 SyncLink meeting that story?

4 A. I don't remember this specific discussion. I
5 understood that there was a concern of Intel trying to
6 control -- using their market power to try to control
7 the industry.

8 Q. And then the next line says -- of these
9 minutes says, "Depending on Intel for business is
10 worse than getting on drugs -- 'It's like someone is
11 sleeping with your wife and they want you to pay the
12 hotel bill.'"

13 Did you hear Mr. Rhoden say that at this
14 meeting?

15 A. I don't believe -- I don't believe I recall
16 whether Mr. Rhoden said it or not. It's actually
17 repeating a comment that was made by someone at the
18 executive meeting.

19 Q. And who had made that at the executive
20 meeting?

21 A. I'll call him Andreas Z. again.

22 Q. Dr. von Zitzewitz from Siemens?

23 A. Yes.

24 Q. Well, let me move on if I could, try to speed
25 this up just a bit, to a presentation that I believe

1 was made at the -- at a February '97 SyncLink
2 Consortium meeting with AMD. And I represent to you
3 this was produced to us by AMD. I believe you were
4 present, but that will be my first questions. It's
5 RX-876.

6 May I?

7 JUDGE McGUIRE: Yes.

8 BY MR. PERRY:

9 Q. Let me just establish what role AMD played with
10 respect to DRAM in this time period, 1997. What did
11 they make?

12 A. They were a microprocessor developer.

13 Q. Okay. Let me just show you the title of this.
14 It says "SLDRAM Presentation by SyncLink Consortium
15 February 18, 1997."

16 Do you see that?

17 A. Yes.

18 Q. And look on page 8.

19 Do you see a reference to your name?

20 A. I do.

21 Q. Were you present for a presentation about
22 SyncLink in about February 1997 at AMD?

23 A. I recall speaking with AMD before about
24 SyncLink. This presentation is kind of a standard set
25 of foils that we used and updated periodically for some

1 customer presentations, and I may not have been on all
2 those presentations even though my name is on the
3 foils.

4 So I'm not saying I wasn't there; I'm saying
5 I'm not sure if I was there at this time with this
6 presentation.

7 Q. Okay. Then what I'm going to limit it to is
8 whether or not the foils were prepared by you. And I
9 really just have a question about that.

10 And I'll represent to you that from this page,
11 page 8, all the way to the back I could not find
12 another person's name, and what I'd like you to do is
13 try to tell me if you were the one who prepared the
14 foils that go from page 8 back to page 35.

15 A. I prepared these foils with inputs from others
16 from the SLDRAM technical review.

17 Q. Okay. Well, let me focus just on one
18 particular one foil at page 32.

19 And the top one is called Business Comparisons.
20 I'll let you look at it.

21 Are you on page 32?

22 A. Yes.

23 Q. Good.

24 (Pause in the proceedings.)

25 A. Okay.

1 Q. Is this a slide that you prepared for use in
2 customer presentations?

3 A. I'm not a hundred percent positive whether I
4 received input or I received this slide from somebody
5 and put it in here. I put together the whole package
6 on the technical part I should explain.

7 MR. PERRY: Your Honor, this would be a good
8 time for a lunch break if it's a good time for you.

9 JUDGE McGUIRE: That's fine for me. Let's take
10 a break then. It's almost 12:30 now. Let's break
11 until 1:45.

12 Hearing in recess.

13 (Whereupon, at 12:27 p.m., a lunch recess was
14 taken.)

15

16

17

18

19

20

21

22

23

24

25

1 member?

2 A. Yes.

3 Q. And at that time was Mr. Walther,
4 Terry Walther, the official Micron JEDEC
5 representative?

6 A. He was.

7 Q. And I think you testified, but let me ask you
8 just directly.

9 At some point in time did Mr. Walther begin
10 circulating a copy of JEDEC meeting minutes to you?

11 A. Yeah. I received meeting minutes on a periodic
12 basis.

13 Q. And did that happen from time to time in 1995
14 and '96?

15 A. Yeah. I don't recall if I received meeting
16 minutes from every meeting, but from time to time,
17 yes.

18 Q. Well, let me ask this.

19 Did Mr. Walther tell you at any time prior to
20 the year 2000 that Rambus' JEDEC representative had
21 refused to answer any questions about Rambus'
22 intellectual property with respect to features
23 contained in the SDRAM standard?

24 A. There was a discussion after Rambus
25 discontinued being a JEDEC member about -- in general

1 about Rambus' disclosure at JEDEC and kind of the
2 nature of how they had terminated their membership.

3 Q. Well, my question was actually quite specific.

4 Did Mr. Walther tell you anytime prior to 2000
5 that a Rambus JEDEC representative had refused to
6 answer questions about Rambus intellectual property
7 with respect to SDRAM?

8 A. No, I don't believe he did.

9 Q. Did anyone ever tell you that a Rambus JEDEC
10 representative had refused to answer a question about
11 Rambus' possible intellectual property with respect to
12 features, any feature, contained in the JEDEC SDRAM
13 compliant devices?

14 A. I don't recall any discussions relating to
15 Rambus' refusing to answer a question.

16 Q. Did Mr. Walther or anyone else ever tell you
17 that Rambus had refused to answer questions at JEDEC
18 meetings about its intellectual property rights with
19 respect to SyncLink?

20 A. I'm sorry. Could you repeat it.

21 Q. Yes.

22 Did Mr. Walther or anyone else ever tell you
23 that Rambus had refused to answer questions at JEDEC
24 meetings about its intellectual property rights with
25 respect to SyncLink?

1 A. No. Not that I recall.

2 Q. Did Mr. Walther ever tell you that Rambus had
3 read a prepared statement at a JEDEC meeting that said
4 that, quote, our presence or silence at committee
5 meetings does not constitute an endorsement of any
6 proposal under the committee's consideration nor does
7 it make any statement regarding potential infringement
8 of Rambus intellectual property?

9 A. I don't recall that statement.

10 Q. Did you ever see that statement in an
11 attachment to a JEDEC minute?

12 A. The only statement I recall that relates to
13 that is there was some letter I think Richard Crisp
14 had sent to JEDEC upon their termination of
15 membership.

16 Q. Well, that's actually not the one I'm talking
17 about.

18 Let me show you the one I'm talking about and
19 see if it refreshes your recollection. I'll show you a
20 one-page document, RX-602.

21 May I?

22 JUDGE McGUIRE: You may.

23 BY MR. PERRY:

24 Q. Now, I'll represent to you that this was an
25 attachment to JEDEC meeting minutes from

1 September 1995, and since you were sent JEDEC meeting
2 minutes on a periodic basis, my question to you is,
3 simply, did you, prior to the year 2000, ever see this
4 September 11, 1995 statement by Rambus?

5 A. I don't recall ever seeing this.

6 Q. I want to move forward in time to March 1997,
7 and I'll ask you to look at JX-36, which is in the
8 stack in front of you from March 1997. It's JEDEC
9 meeting minutes.

10 If you need another copy, I have one.

11 Do you have JX-36?

12 A. I do.

13 Q. And you talked about some references in these
14 minutes yesterday; right?

15 A. Yes.

16 Q. You attended this meeting, I think your name
17 appears on the second page, "Others Present,
18 Terry Lee"?

19 A. Yes. I attended portions of it.

20 Q. You attended portions of this meeting.

21 And if you'll look on page 7, please.

22 Let's pull up the reference in item 6.6.

23 I believe you told us yesterday you were
24 present for a presentation by NEC relating to what's
25 called here DDR SDRAM for high-end systems.

1 Were you present for that presentation?

2 A. Yes, I was.

3 Q. Now, I think you gave the name of someone at
4 NEC who was presenting this, but I didn't -- I couldn't
5 catch it. What was his name?

6 A. There were two gentlemen from NEC I recall, and
7 a gentleman by the name of Asakura was involved in that
8 presentation.

9 Q. Yoshitomo Asakura?

10 A. I believe that's his first name.

11 Q. And you asked that gentleman to draw a diagram
12 of what he was talking about; is that right?

13 A. Correct.

14 Q. And when he drew it, you thought it looked
15 similar to the loop-back clock described in Rambus
16 '703 patent that you had earlier reviewed; right?

17 A. That's correct.

18 Q. Now, did you yourself, Mr. Lee, raise the
19 patent issue at that point in the committee
20 deliberations or did you tell Mr. Walther about your
21 concern and he raised it?

22 A. I believe I raised it myself that I had
23 concerns that this looked like this Rambus patent.

24 Q. Do you remember the words you used?

25 A. Today?

1 Q. Yes. Do you remember today the words you used
2 then?

3 A. I don't remember the exact words.

4 Q. Well, the minutes say on page 7: "A first
5 showing was made by NEC. It included a read clock and
6 a write clock. A discussion of the clock issue took
7 place. Some on the committee felt that Rambus had a
8 patent on that type of clock design."

9 The statement "Some on the committee felt that
10 Rambus had a patent on that type of clock design," is
11 that a fair representation of what you said at the
12 meeting?

13 A. It may be a summary of what I said.

14 Q. Is it a summary of what you said?

15 A. Well, it sounds like it's a summary of a few
16 people's comment.

17 Q. Well, that was my next question, but is it a
18 fair summary of what you said at the meeting?

19 A. I identified a concern that I thought that
20 Rambus may have a patent on that or it looked like a
21 Rambus patent, something to that effect.

22 Q. Now, who else besides you said that they also
23 felt that way?

24 A. There were many people who spoke up in the
25 committee about this whole discussion. This discussion

1 probably lasted two or three minutes. There were quite
2 a few people who stood up to either comment on whether
3 this should be included or considered in the standard
4 or not. And also there was some comments about the
5 Rambus license fee.

6 Q. I wasn't clear enough with my question.

7 After you said that you had this concern that
8 it looked like something you'd seen in a Rambus
9 patent, who else besides you said that they thought it
10 looked like something that Rambus might have a patent
11 on?

12 A. I don't remember exactly which individuals said
13 what.

14 Q. Well, the reference in the minutes is that some
15 on the committee felt that Rambus had a patent on that
16 type of clock design.

17 Other than you, do you remember who that was?

18 A. I thought I just answered that. I don't recall
19 who else made those exact statements.

20 Q. Thank you.

21 Now, when you raised the issue in the JEDEC
22 meeting, did you understand that you were obligated
23 under the JEDEC patent policy to bring to the
24 committee's attention intellectual property rights of
25 other companies that you were aware of that might

1 relate to a proposal under discussion?

2 A. Yeah. It was my understanding that I needed to
3 identify IP that may relate to the work of the
4 committee.

5 Q. Now, the minutes continue, "Others felt that
6 the concept predated Rambus by decades."

7 Who, if you can recall, expressed an opinion
8 that the concept you had addressed predated Rambus by
9 decades?

10 A. I don't recall who said that.

11 Q. Do you remember somebody saying that?

12 A. Yeah. I remember discussions about that. Like
13 I said, though, the discussions probably took two or
14 three minutes and included these topics.

15 Q. Did someone say in substance that the use of a
16 loop-back bus in a memory device had been used for
17 decades?

18 A. A loop-back bus?

19 Q. Yeah.

20 A. I don't recall that being said.

21 Q. Well, let's look at the presentation if we
22 could. Let's look at appendix F that starts at
23 page 56, and you showed it to us yesterday.

24 This is the one where it's on pages 56, 57 and
25 59 because of the copying problem. Do you remember

1 that?

2 But let me put that aside for a second.

3 When you were talking yesterday about your
4 understanding at the time of the Rambus architecture, I
5 think you told us that you understood it to involve a
6 narrow bus and to be multiplexed, that is, the command
7 address and data shared the same signal lines. Is that
8 what you said?

9 A. That's correct.

10 Q. Now, in this NEC proposal, command address and
11 data don't share the same signal lines, do they? You
12 can see that on page 57. Right?

13 A. Yeah, in this proposal command address appears
14 to be separate from data.

15 Q. And you would not describe the NEC
16 presentation as involving a packetized protocol, would
17 you?

18 A. No.

19 Q. And you would not have described the NEC
20 presentation as involving a narrow bus, would you?

21 A. No.

22 Q. So by March '97 at least you believed that
23 Rambus might have intellectual property claims that
24 extended beyond the narrow bus, multiplexed, packetized
25 RDRAM architecture; right?

1 A. No. My concerns were strictly about a clocking
2 scheme.

3 Q. So you believed by March 1997 that Rambus
4 might have intellectual property claims to clocking
5 schemes that were not tied to the use of a narrow bus
6 in a multiplexed, packetized RDRAM architecture;
7 right?

8 A. I had concerns that they had patents to a
9 clocking scheme that may relate to the work of the
10 committee.

11 Q. You had a concern, didn't you, by March 1997
12 that Rambus might have intellectual property claims
13 with respect to a device that was neither packetized
14 nor had a narrow bus; right?

15 A. I had concerns about it relating to this
16 clocking scheme. You know, whether that patent applies
17 specifically or not I really wouldn't be qualified to
18 determine. I expressed a concern because it may relate
19 to the work of the committee.

20 Q. Did anyone -- well, strike that.

21 Now, let's look back at page 7 of the
22 minutes -- Your Honor, there's some noise from counsel
23 table and I am worried it's affecting -- I'm not saying
24 it's intentional. I'm worrying it's affecting the
25 transcript.

1 JUDGE McGUIRE: Oh, I'm sorry. But I couldn't
2 hear it from up here. Is it conversation?

3 MR. PERRY: No. It's coughing, Your Honor.
4 And I'm sorry, I don't mean to be rude, but it has just
5 been since lunch and I'm worried that it's affecting
6 the transcript.

7 JUDGE McGUIRE: Well, let's be sure that
8 doesn't happen, and please feel free to point that out
9 if it does occur.

10 BY MR. PERRY:

11 Q. Mr. Lee, would you look, please, on page 7,
12 item 6.6. That's the discussion of the NEC proposal;
13 correct?

14 A. Yes.

15 Q. And that's a first showing; right? That's what
16 it says?

17 A. Yes.

18 Q. And it's entitled NEC DDR SDRAM for High-End
19 Systems; correct?

20 A. That's correct.

21 Q. So you had a concern in March of 1997 that
22 Rambus might have a patent with respect to some feature
23 of the NEC DDR SDRAM that they were proposing at this
24 meeting; right?

25 A. I had concerns that their patent may relate to

1 this specific proposal on the clocking scheme.

2 Q. Right.

3 And you told us yesterday that members of the
4 committee strongly objected to the NEC proposal after
5 you raised this concern; correct?

6 A. That is correct.

7 Q. Was it your understanding at the time from
8 being in the meeting that those strong objections were
9 a direct response to your disclosure that Rambus might
10 have intellectual property rights relating to this
11 proposal?

12 A. Yes. Mine and others.

13 Q. Right.

14 Let's move forward one month to April 1997.
15 But before we do, I have one more March '97 -- sorry --
16 short e-mail to show you, and it's Exhibit 890.

17 JUDGE McGUIRE: Is that RX-890?

18 MR. PERRY: RX-890.

19 JUDGE McGUIRE: All right. Approach.

20 BY MR. PERRY:

21 Q. Now, this page was produced to us by
22 Ms. Betty Prince.

23 You're familiar with Ms. Prince, aren't you?

24 A. Yes.

25 Q. She's a longtime JEDEC representative?

1 A. I believe she is.

2 Q. And in the middle of the page there is an
3 e-mail that appears to be from you. Let's see if we
4 can pull that up.

5 And that says it's from Terry Lee to
6 supply@hea.com, subject Rambus starts public filing,
7 dated March 17, 1997. Do you see that?

8 A. Yes.

9 Q. And is that an e-mail that you sent to the
10 supply reflector that had been described in some of
11 those SyncLink minutes we saw?

12 A. It is.

13 Q. And you were telling the folks who were going
14 to receive that e-mail from the SyncLink reflector that
15 Rambus was filing some documents with the SEC in
16 preparation for going public?

17 A. Yes.

18 Q. And is it your -- does it appear to you that
19 that was forwarded on to Ken McGhee at some point, the
20 JEDEC secretary?

21 MR. OLIVER: Objection, Your Honor. Lack of
22 foundation.

23 JUDGE McGUIRE: Sustained.

24 BY MR. PERRY:

25 Q. Did you at some point get this e-mail back from

1 Ken McGhee because he had sent it out to a large group
2 of JEDEC members?

3 A. I don't recall.

4 Q. Okay. Why were you sending this information
5 about Rambus to your competitors that make up that
6 supply reflector?

7 A. Well, the members of SLD RAM include both
8 suppliers and customers.

9 Q. Okay.

10 A. And I sent this information out that they were
11 going public because there was some -- I think there
12 was some news at that time that they were planning on
13 going public, so it was generally accepted rumor, if
14 you will.

15 Q. Now, was it your understanding that when you
16 sent an e-mail to supply@hea.com that that e-mail then
17 was sent to more than just DRAM manufacturers?

18 A. I'm unsure as to the exact distribution list.

19 Q. Well, let's now look at Exhibit 920 from
20 April -- RX-920 from April 1997. I think you looked at
21 it yesterday. Do you have a copy there?

22 I can get you one if you need one. It should
23 be chronological.

24 Mr. Oliver, do you have an extra one?

25 THE WITNESS: It might be faster if you've got

1 one. It's a small document; it might be hard to find.

2 MR. PERRY: May I approach?

3 JUDGE McGUIRE: Yes.

4 BY MR. PERRY:

5 Q. Now, this is the e-mail exchange that we talked
6 about yesterday or that you talked about yesterday
7 involving you and Mr. Walther and Mr. Weinstock and
8 copies of some of the e-mails went to Mr. Mailloux,
9 Mr. Biggs and Mr. Welch.

10 This is an e-mail that talks about some
11 conversations with James Akiyama at Intel, and I
12 wanted to start by finding out who some of these cc's
13 were.

14 There's a reference to Jon Biggs. What was his
15 position at the time?

16 A. I believe -- well, first of all, Jon was in
17 sales and I believe he was the prior Intel account
18 representative. There was some transition going on at
19 that time between him and Keith Weinstock.

20 Q. And who was Gary Welch?

21 A. Gary Welch was in product marketing. I believe
22 the relevance was that he -- Rambus product came under
23 him.

24 Q. And you told us about Keith Weinstock
25 yesterday. I believe you said he was then the current

1 Intel representative for Micron; right?

2 A. I believe that's correct.

3 Q. And he reported to you and a group of others
4 that Mr. Akiyama had said that Rambus feels DDR for any
5 memory is under their patent coverage; right?

6 A. Yes.

7 Q. And when you read this, you understood that DDR
8 referred to the use of dual-edged clocking; right?

9 A. Well, I assumed -- I'm not sure if I understood
10 that. I understood that DDR as referring to DDR SDRAM,
11 but I'm not sure. Maybe I don't understand the
12 question.

13 Q. Well, that's fine. I was just asking your
14 understanding. That's fine.

15 A. Okay.

16 Q. And when it says "any memory," you understand
17 that to include any DRAM device; right?

18 A. Well, yeah. Explicitly what it says is "any
19 memory," so it could be beyond DRAM, but I'm not sure
20 what his intent was.

21 Q. Well, you at least understood that this was a
22 reference to the DDR SDRAM device that was being
23 discussed at JEDEC; right?

24 A. Yes.

25 Q. And you understood in April 1997 that Rambus

1 was no longer a JEDEC member; right?

2 A. Yes.

3 Q. And you knew that Richard Crisp had stopped
4 attending JEDEC meetings back in 1995; right?

5 A. No. I understood that Rambus discontinued
6 their membership sometime in '96, in mid-'96.

7 Q. Well, I think it's undisputed that Mr. Crisp
8 attended his last meeting in December 1995, but if you
9 don't remember that, that's fine. But I believe
10 there's a stipulation to that effect in this case.

11 Let's look at the third line -- the third
12 sentence in that e-mail that's in front of you on the
13 screen, the April 17, 1997 e-mail at 9:36 a.m.

14 It says, "He further stated" -- and when it
15 says "he," did you understand that to mean
16 James Akiyama at Intel?

17 A. Yes. I believe so.

18 Q. It says, "He further stated the determining
19 factor would be whether the courts take a broad or a
20 narrow view of the patents."

21 Do you see that?

22 A. Yes.

23 Q. Now, you had interacted with Mr. Akiyama on a
24 fairly regular basis in this time period; correct?

25 A. I don't know if it was fairly regular. I

1 probably interact with him a few times or so for that.

2 Q. Did you think when you read this that he was
3 trying to mislead Micron when providing this
4 information?

5 A. No. I felt that he was being misled.

6 Q. I understand that part.

7 But did you think that he was knowingly
8 misleading you when he provided that information?

9 A. No, I don't think so.

10 Q. In fact, you knew him to be a supporter of DDR
11 at this point; right?

12 A. I knew that for the graphics application which
13 he was involved with they preferred DDR at this time.

14 Q. So your understanding at the time was that
15 Mr. Akiyama thought he was giving Micron a warning;
16 isn't that what you thought?

17 I'm just asking for your belief at the time.

18 A. No. Not necessarily.

19 Q. Okay. Well, you didn't think Mr. Akiyama was
20 lying to you?

21 A. He wasn't speaking to me.

22 Q. Okay. Did you believe that Mr. Akiyama was out
23 to fool Micron in providing this information to
24 Mr. Weinstock?

25 A. No. Not knowingly.

1 Q. Okay. And that line that I just read you from
2 the e-mail says something about whether the courts
3 take, quote, a broad or a narrow view of the patents.

4 Do you see that?

5 A. Yes.

6 Q. You understood that to refer to possible future
7 litigation; right?

8 A. I don't see anything here about litigation.

9 Q. When it talks about the courts, did you
10 understand that at the time to be something involving
11 lawsuits?

12 A. Potentially either that or Patent and Trademark
13 Office.

14 Q. Okay. Well, let's look at the original e-mail
15 from Mr. Weinstock.

16 Do you see down at the bottom of the first page
17 of Exhibit RX-920 there's an e-mail that begins "From:
18 Keith Weinstock"? It's dated April 16, 1997. Do you
19 see that?

20 A. Yes.

21 Q. And if you look on the next page, and you find
22 about halfway down or a third of the way down you'll
23 see a line that says, "Rambus plans legal action to
24 request royalties on all DDR memory efforts."

25 Do you see that?

1 A. Yes, I do.

2 Q. And you understood "legal action" to be a
3 reference to patent infringement suits?

4 A. I believe it could, yes.

5 Q. Now, you told us yesterday -- you can put that
6 down for a second. Let me make sure you're following
7 me.

8 You told us yesterday that you did not --
9 strike that.

10 You told us yesterday that you decided not to
11 follow up with respect to the references in this
12 e-mail about Rambus' possible intellectual property;
13 right?

14 A. That's correct.

15 Q. And I had some questions about that.

16 First a broad one: Did you speak to
17 Mr. Akiyama at any time in 1997 after you received this
18 e-mail about the issue of possible Rambus patent
19 claims?

20 A. No, I did not.

21 Q. Okay. As far as you know, did Mr. Walther do
22 anything to follow up on any of the information
23 provided in this e-mail, RX-920?

24 A. No. Not that I know.

25 Q. As far as you know, did Mr. Biggs do anything

1 to follow up on this information?

2 A. No.

3 Q. As far as you know, did Mr. Mailloux do
4 anything to follow up on this information?

5 A. No.

6 Q. As far as you know, did Mr. Ryan do anything to
7 follow up on this information?

8 A. No.

9 Q. As far as you know, did Mr. Gary Welch do
10 anything to follow up on this information?

11 A. No.

12 Q. There's a reference in the e-mail address on
13 the first page to a Strick, someone whose e-mail
14 address is Strick.

15 Do you know who that is?

16 A. Steve Trick.

17 Q. Steve Trick, what was his position at the
18 time?

19 A. He was involved with modular development.

20 Q. And who did he report to at the time?

21 A. I'm not sure who he reported to at the time.

22 Q. Who did Mr. Welch report to at the time?

23 A. I believe he reported to Jeff Mailloux.

24 Q. And who did Mr. Ryan report to at the time?

25 A. Jeff Mailloux.

1 Q. Who did Mr. Biggs report to at the time?

2 A. I'm not sure.

3 Q. Okay. Now, you explained yesterday your
4 reasons why you did not follow up with anyone when you
5 got this e-mail, and I want to get into that, but first
6 let me ask a few more broader questions.

7 Did you tell any JEDEC representative from any
8 other company about any of the information contained in
9 Exhibit RX-920?

10 A. No. Not that I recall.

11 Q. Did you pass on any of the information
12 contained in Exhibit RX-920 to any of Micron's in-house
13 lawyers?

14 A. No, not that I recall. I didn't believe it.

15 Q. And I will explore the reasons why you didn't.

16 A. Sure.

17 Q. But first I want to look at some entries from
18 the Micron privilege log.

19 We've previously marked as Exhibit RX-1920 the
20 very substantial privilege log that we were provided by
21 Micron in a lawsuit in Delaware. And I've got certain
22 pages from that privilege log that I want you to look
23 at.

24 But let me say, I do not want you to give me
25 any testimony about what was said with lawyers. Okay?

1 That's not what I'm asking.

2 A. Okay.

3 Q. Now, if we could pull up RX-1920, just the
4 first page.

5 Do you see that says "Supplement to Plaintiff's
6 Privilege Log"? Do you see that?

7 A. Yes.

8 Q. I'm going to show you now what's RX-1920 at
9 page 415.

10 May I?

11 JUDGE McGUIRE: Yes.

12 BY MR. PERRY:

13 Q. Now, I want to point your attention to the very
14 last e-mail -- not e-mail -- entry, the very last entry
15 on this page, which says "e-mail including e-mail
16 chain," March 25, 1997, from Mr. Mailloux to
17 Mr. Westergard.

18 Now, you understood Mr. Westergard to be patent
19 counsel?

20 MR. OLIVER: Objection, Your Honor. There's no
21 foundation that this witness has ever seen this
22 document.

23 JUDGE McGUIRE: Sustained.

24 MR. PERRY: Your Honor, I was just asking --

25 JUDGE McGUIRE: Try to lay a foundation if you

1 can, Mr. Perry.

2 MR. PERRY: I'm quite sure he didn't prepare
3 the privilege log, Your Honor, but he's going to be
4 able to tell the names of people. They're Micron
5 people.

6 JUDGE McGUIRE: I'll entertain that question.

7 BY MR. PERRY:

8 Q. Did you understand in the spring of 1997 that
9 there was a Mr. Westergard who was a patent lawyer at
10 Micron?

11 A. I understood Dave Westergard is an attorney at
12 Micron. I'm not sure what the bounds of his
13 responsibilities are.

14 Q. In March of 1997, did you -- putting aside
15 conversations with lawyers, in March of 1997, did you
16 have any conversations with Mr. Mailloux on the subject
17 of SGRAM DDR and Rambus?

18 A. The technical details on this e-mail? The
19 prior e-mail? I'm sorry. Maybe I'm not --

20 Q. I'm not talking about Exhibit RX-920, which is
21 dated April 1997. I'm asking you -- I'm putting the
22 document aside.

23 I'm asking you now if you had any
24 conversations with Mr. Mailloux in March of 1997
25 outside the presence of counsel about whether or not

1 Rambus had intellectual property claims with respect to
2 SGRAM DDR.

3 A. Not that I recall.

4 MR. OLIVER: Excuse me, Your Honor. If the
5 question is unrelated to the document, I request the
6 document be taken off the screen.

7 MR. PERRY: I didn't notice it was still up,
8 Your Honor.

9 JUDGE McGUIRE: All right. Let's take it off
10 the screen.

11 All right. Can you answer that question,
12 Mr. Lee?

13 THE WITNESS: Sure. It was not that I recall.

14 BY MR. PERRY:

15 Q. Well, let me show you what is Exhibit RX-1920
16 at page 421.

17 May I?

18 JUDGE McGUIRE: Go ahead.

19 MR. OLIVER: Your Honor, before we proceed any
20 further, there's no evidence that this witness has seen
21 any of these entries. If he wishes to ask who a person
22 is, I think he should take the document --

23 JUDGE McGUIRE: We went through this the other
24 day with their side. I'm going to ask you to do the
25 same.

1 MR. PERRY: Your Honor --

2 JUDGE McGUIRE: It would save a lot of time if
3 you could lay the foundation early so he doesn't have
4 to jump up.

5 MR. PERRY: I hadn't even had a chance to ask
6 him a question. This is a privilege log. It's not a
7 document. It's just a privilege log that was created
8 in litigation.

9 This is a reference, the only reference we have
10 because the document has been withheld, of a
11 communication that he was involved in in this time
12 period. He's testified he did not tell in-house
13 counsel about his conversation -- or about the e-mail,
14 rather, with Mr. Akiyama. This is dated that same day,
15 and if you'll look at what it's about, Your Honor, I'm
16 entitled to see if this refreshes his recollection that
17 he --

18 JUDGE McGUIRE: On that basis, I'll hear the
19 question.

20 BY MR. PERRY:

21 Q. Will you look at item 1036 on this privilege
22 log.

23 Do you see it's dated April 17, 1997?

24 A. Yes.

25 Q. Do you see it's described as an e-mail

1 including an e-mail chain?

2 A. Yes.

3 Q. Do you see that you're the first listed author,
4 the only listed author?

5 A. Yes.

6 Q. Do you see that the recipient is listed as
7 Mr. Westergard?

8 A. I do.

9 Q. And it says "confidential communication
10 regarding meeting summary and DDR."

11 Do you see that?

12 A. Yes.

13 Q. Does that refresh your recollection that you
14 communicated with Mr. Westergard something about some
15 of the information contained in RX-920?

16 A. No, it doesn't. It sounds like it's a meeting
17 summary.

18 Q. Okay. Now, did any of the other recipients of
19 RX-920, the April 17, 1997 e-mail, come to you to talk
20 about whether they should follow up?

21 A. Not that I recall.

22 Q. And in deciding whether or not you should
23 follow up on the information contained in that e-mail,
24 did you talk to anyone else?

25 A. I talked with Kevin Ryan about following up on

1 the simulation issue, the technical issue.

2 Q. Did you talk to anyone about following up on
3 the information regarding Rambus' potential
4 intellectual property claim?

5 A. No. Not that I recall.

6 Q. So you did the analysis of the question of
7 whether or not to follow up all on your own; right?

8 A. On that issue?

9 Q. Yes.

10 A. That's correct.

11 Q. All right. Well, I want to talk about the
12 factors you identified yesterday that you considered in
13 deciding whether or not to follow up on the e-mail.

14 Why don't we get it back up so that it's in
15 front of me at least. That's RX-920.

16 Now, the first issue you mentioned yesterday
17 was that it was hearsay. Do you remember that?

18 A. Yes.

19 MR. PERRY: Your Honor, may I approach the
20 paper?

21 JUDGE McGUIRE: Yes.

22 BY MR. PERRY:

23 Q. And you thought it was unreliable as a result;
24 right?

25 A. Yes. I think it was created by other

1 motivations.

2 Q. Now, at the time that you were considering
3 whether or not to follow up on the information in the
4 e-mail, you understood that you could solve the hearsay
5 problem by calling up Rambus directly; right?

6 A. I didn't consider that option.

7 Q. So you did not at all think of resolving the
8 hearsay problem by contacting Rambus directly, it
9 didn't come to your mind; is that correct?

10 A. No. This was just consistent of the kind of
11 things that they were doing at the time.

12 Q. Well, I had double negatives in my question.
13 I'm going to have to ask it of you again.

14 A. Okay.

15 Q. Did you, when you were thinking about the
16 hearsay issue in deciding whether you were going to
17 follow up with the -- on the information regarding
18 Rambus' possible intellectual property claims, did you
19 consider calling up Rambus?

20 A. I think the answer holds. I did not. I --

21 Q. Okay. Did you consider having JEDEC write
22 Rambus a letter asking for reasonable and
23 nondiscriminatory assurances of licensing?

24 A. No. I didn't believe that they had. I didn't
25 believe this was true. There was nothing to act on.

1 Q. I understand.

2 A. Okay.

3 Q. I'm trying to ask you some specific questions
4 about what you considered.

5 Now, the second issue you said was that there
6 was a lot of misinformation going around that you
7 thought was somebody trying to pump up the stock price
8 of Rambus before the IPO happened; is that right?

9 A. The valuation of Rambus.

10 Q. The valuation, before the IPO?

11 A. That was part of the -- that's part of what I
12 stated.

13 Q. Now, did you see in the press any reference to
14 Rambus possible intellectual property claims with
15 respect to DDR SDRAM in this time period, before the
16 IPO?

17 A. I don't recall any press about that particular
18 issue.

19 Q. How did you think it would have pumped up the
20 valuation of the company for Rambus just to tell Intel?
21 What was your thought process?

22 A. The thought process was that they were trying
23 to get Intel locked into designing Rambus in on
24 everything, direct RDRAM, and to try to tell them they
25 had no other alternative, that they've eliminated all

1 of their competition to their patents.

2 In specific, this was about graphics memory,
3 and Intel at that time had a preference for the
4 DDR SGRAM, so it was consistent with their prior
5 behavior that they might tell Intel, Oh, we have
6 patents on that, so you can't use DDR there either.

7 Q. So you think -- you thought at the time that
8 Rambus had lied to Intel about its potential
9 intellectual property claims on DDR in a memory
10 device?

11 A. I certainly believe that from the results of
12 this e-mail that they must have misled them.

13 Q. Well, let me add number two. How should I
14 describe that? Misinformation? What was your thought
15 process?

16 A. Misinformation, propaganda, whatever you want
17 to call it.

18 MR. PERRY: Okay. May I, Your Honor?

19 JUDGE McGUIRE: Please.

20 BY MR. PERRY:

21 Q. Now, if you thought the information wasn't
22 true, did you consider following up to see whether or
23 not it turned out to be true?

24 A. No. I didn't see a reason to chase the rumor.

25 Q. Well, your third reason I think you talked

1 about yesterday is that Rambus and Micron had just
2 concluded license negotiations; right?

3 A. Correct.

4 Q. Well, let me show you something in that time
5 frame about the license between Rambus and Micron.
6 This is an e-mail that you're copied on from
7 Mr. Mailloux dated April 21, 1997, RX-921.

8 May I?

9 JUDGE McGUIRE: Yes.

10 BY MR. PERRY:

11 Q. And is this an e-mail from Mr. Mailloux in
12 April 1997 attaching an e-mail that had embedded within
13 it an article about Mitsubishi and Micron licensing the
14 Rambus DRAM?

15 A. Can I take a minute to read that, counsel?

16 Q. Yes. Sure.

17 (Pause in the proceedings.)

18 May I approach the board?

19 JUDGE McGUIRE: Yes.

20 While you're up there, Mr. Perry, let's go
21 ahead and have that marked as DX-119.

22 (DX Exhibit Number 119 was marked for
23 identification.)

24 BY MR. PERRY:

25 Q. Does that refresh your recollection or affirm

1 your recollection that Micron signed the Rambus license
2 in April 1997?

3 A. Sure.

4 Q. Now, did you ever see the Rambus-Micron license
5 agreement?

6 A. Yes.

7 Q. Did you see all of it?

8 A. Yes.

9 Q. Well, let me ask you if you noticed in it a
10 restriction on Micron's use of the Rambus intellectual
11 property.

12 Did you notice any restrictions in the license
13 agreement on Micron's use of the Rambus intellectual
14 property?

15 A. Yes, I did.

16 Q. And you saw that Micron was only entitled to
17 use Rambus intellectual property to manufacture the
18 RDRAM; correct?

19 A. Direct RDRAM.

20 Q. Direct RDRAM; correct?

21 A. Yes.

22 Q. And did you understand from the reports you
23 were getting about licensing negotiations that Rambus
24 had insisted that Micron's license to use Rambus'
25 proprietary technology be limited to the manufacture of

1 RDRAM, direct RDRAM?

2 A. Yes.

3 Q. Now, I've written on the board "Rambus/Micron
4 license." Is that a fair summary or at least a
5 heading for the third item that you were talking
6 about?

7 A. Yes.

8 Q. All right. The fourth item that I recall you
9 talking about is that Rambus had been a JEDEC member;
10 right?

11 A. That's correct.

12 MR. PERRY: If I could approach, Your Honor?

13 JUDGE McGUIRE: Yes.

14 BY MR. PERRY:

15 Q. All right. I've now written "Rambus a JEDEC
16 member" on that chart.

17 Now, you knew as of April 1997, when you got
18 this e-mail, RX-920, that the use of dual-edged
19 clocking in a synchronous memory device had not been
20 balloted for approval at JEDEC while Rambus was a
21 member; right?

22 A. I understand that it was discussed while Rambus
23 was a JEDEC member.

24 Q. That wasn't my question. I hear you. I
25 disagree with you, but it wasn't my question. And I'm

1 not going to argue with you.

2 But my question is: You understood in
3 April 1997 that the use of dual-edged clocking had not
4 been balloted for approval at JEDEC while Rambus was a
5 member; right?

6 A. I agree that it had not been balloted for
7 approval, but I also agree that was involved in the
8 work of the committee at the time that Rambus was a
9 JEDEC member.

10 Q. Now, you had heard with your own ears when you
11 were attending JEDEC meetings, you had heard
12 Gordon Kelley, the chairman of the 42.3 committee, say
13 at JEDEC meetings where you were present that a
14 representative was required to disclose knowledge of
15 intellectual property at the time of balloting but was
16 encouraged to disclose earlier? You heard him say
17 that; right?

18 A. I don't believe I heard those exact words, no.

19 Q. Did you hear him say in substance that
20 disclosure of a representative's knowledge of
21 intellectual property relating to the ballot -- to the
22 material being balloted was required at the time of
23 balloting but encouraged earlier?

24 A. I don't recall his exact words. What I do
25 recall is that various members of the JEDEC committee

1 and usually at the start of the meeting would reiterate
2 certain aspects of the JEDEC patent policy.

3 Q. Let me ask you if you ever heard Gordon Kelley
4 say in substance that the required time of disclosure
5 of intellectual property known to the representative
6 was at the time of balloting.

7 A. No. I don't recall that statement.

8 Q. Was it your understanding in April 1997 that
9 the required time of disclosure for intellectual
10 property known to the representative was time of
11 balloting, but it was encouraged earlier?

12 A. No.

13 Q. Okay. Well, you were present at a January 1996
14 JEDEC meeting and you looked at this yesterday, JX-29.
15 Please pull that out if you can. January 31, 1996,
16 JX-29.

17 Do you have JX-29?

18 A. I do.

19 Q. Do you see on the page 2 that you're listed as
20 being present?

21 A. Yes.

22 Q. And at this meeting, at this JEDEC meeting in
23 January 1996, you made a presentation about echo
24 clocks; correct?

25 It starts on page 17 of this exhibit. I think

1 you talked about this presentation yesterday.

2 A. No. This was Kevin Ryan's.

3 Q. So you were present when Mr. Ryan was
4 presenting this discussion of echo clocks?

5 A. Yes, I believe so.

6 Q. And did you know at the time that Gene Cloud
7 had patents or patent applications covering the use of
8 echo clocks in memory devices?

9 A. No.

10 Q. When did you first learn that Gene Cloud had
11 patents or patent applications covering the use of echo
12 clocks in memory devices, if ever?

13 MR. OLIVER: Objection, Your Honor. Assumes
14 facts not in evidence.

15 MR. PERRY: That's why I said "if ever" when he
16 stood up.

17 JUDGE McGUIRE: Go ahead and answer if you
18 can.

19 THE WITNESS: I never did learn that. I also
20 know that we haven't enforced any patents against the
21 standard relating to that.

22 BY MR. PERRY:

23 Q. Is there a standard that incorporates echo
24 clocks?

25 A. No.

1 Q. At JEDEC?

2 A. No.

3 Q. Okay. Now, in September '97, you were not
4 present for a JEDEC meeting, but you talked about the
5 minutes yesterday.

6 Look at JX-40, September 10, 1997. This is the
7 meeting that took place in Taiwan.

8 Okay. You remember that you talked about this
9 set of minutes yesterday, you said you had reviewed it
10 after a meeting; right?

11 A. Yes.

12 Q. Would you look on page 8, which is -- contains
13 the presentation that you were discussing.

14 I believe you were discussing 8.2, the
15 bidirectional data strobe presentation? Is that
16 something you talked about yesterday with Mr. Oliver?

17 A. Yes.

18 Q. Well, do you see the reference to Hitachi about
19 halfway down? It says "Hitachi: We want to alert the
20 committee we have two patents on this topic."

21 Do you see that?

22 A. Yes.

23 Q. And that patent disclosure came at the time the
24 ballots were being counted; right?

25 A. It's clear that it occurred at this time. I

1 don't know if it occurred earlier.

2 Q. Okay. And if you see a few lines down, it
3 says: "Motion by Samsung to send to council, seconded
4 by IBM. The vote was unanimous."

5 Do you see that?

6 A. Yes.

7 Q. When you saw in these minutes -- well, strike
8 that.

9 Did you see in these minutes that there were
10 two patents covering this proposal that had been
11 successfully voted on and sent to council?

12 A. I reviewed these minutes. I don't know if I
13 can say I specifically saw that. I only can remember
14 at this time.

15 Q. As you understood it, was it JEDEC's goal to
16 avoid patents entirely or was it JEDEC's goal to avoid
17 patents that were held by nonmanufacturer companies?

18 A. It was my understanding that it was JEDEC 's
19 goal to avoid the use of patents when possible in
20 creating a standard. However, when they were
21 identified, the company also had a -- the JEDEC member
22 also had a responsibility to agree on reasonable,
23 nondiscriminatory license fees.

24 Q. And it was your experience that when a
25 representative was in the room and said, My company

1 will agree to reasonable and nondiscriminatory terms,
2 then the proposal went forward without further delay,
3 that was your experience; right?

4 A. Not necessarily. It depends. Some patents in
5 some cases they found were important enough to go
6 forward on an understanding that there would be an RND
7 term, if you will, and in other cases the patents were
8 not so critical and they designed around, they used
9 something else, they changed the standard.

10 Q. Okay. Now, before I forget my chart over here,
11 I wanted to give it a title. Can we call it "Four Lee
12 Factors"?

13 A. That's okay with me.

14 Q. Does that work for you?

15 A. Yeah. Sure.

16 MR. PERRY: May I?

17 Now, Your Honor, I'm going to proceed now into
18 some material that may or may not be covered by the
19 in camera order, but because we had a small glitch in
20 giving notice to Micron, we've agreed to consider this
21 stuff as in camera and I'm now going to show it to the
22 witness.

23 JUDGE McGUIRE: Okay. Then again to the
24 audience, let me advise you that due to a court order
25 in this proceeding, the testimony we are about to hear

1 is confidential and therefore will be closed to the
2 public, so at this time all of you in the audience
3 that haven't been cleared to hear this testimony, I
4 have to ask you to please vacate at this time the
5 courtroom.

6 MR. PERRY: And may I say that this portion
7 will be quite short? I expect ten minutes.

8 JUDGE McGUIRE: Yes.

9 To the audience, this should be done in about
10 ten minutes and we'll open the doors again.

11 Counsel, I will ask you to again certify that
12 everyone at counsel table and behind you is authorized
13 to have access to this testimony.

14 MR. OLIVER: To the extent this information is
15 Micron information, yes.

16 MR. PERRY: It is all material produced to us
17 by Micron.

18 And I can represent for this side, the Rambus
19 folks, that it's all people who are authorized to
20 hear.

21 JUDGE McGUIRE: We're now then in in camera
22 session.

23 (The in camera testimony continued in
24 Volume 34, Part 2, Pages 7059 through 7066, then
25 resumed as follows.)

1 JUDGE McGUIRE: We are now back in the public
2 session.

3 Mr. Perry?

4 MR. PERRY: Thank you, Your Honor.

5 BY MR. PERRY:

6 Q. I want to continue for just a few moments on
7 the general subject matter of what I described before
8 as the question of whether or not Micron personnel
9 were aware of the possibility of intellectual property
10 being held by Rambus which might relate to the work of
11 JEDEC.

12 And let me just ask you to take a look at
13 Exhibit RX-1214.

14 May I?

15 JUDGE McGUIRE: Yes.

16 BY MR. PERRY:

17 Q. Do you see that you're a listed recipient of
18 this e-mail? It's about two-thirds of the way down in
19 the middle, it says "tlee@micron.com"?

20 A. Yes.

21 Q. And this e-mail purports to be from someone
22 named H.J. Oh at -- that's Hynix in Korea; right?

23 A. Yes.

24 Q. It's dated July 13, 1998. Do you see that?

25 A. Yes.

1 Q. The subject is Rambus patent. Do you see
2 that?

3 A. Yes.

4 Q. And if you'll pull up the text, please.

5 It says: "Dear all, I have a list of Rambus
6 patents," and then there's a list of 29 patent numbers
7 that Mr. Oh says are Rambus patents.

8 Do you see that?

9 A. Yes.

10 Q. Did you do anything with any of the information
11 in this e-mail?

12 A. No.

13 Q. Did you request that anyone else do any
14 analysis, investigation or inquiry regarding any of the
15 Rambus patents listed here?

16 A. No. Not that I recall.

17 Q. Did you forward this to any lawyer at Micron?

18 A. I don't recall.

19 Q. Did you provide this to any of Micron's JEDEC
20 representatives?

21 A. I don't recall that I did anything with this
22 document.

23 Q. Well, let me show you RX-1095.

24 May I?

25 JUDGE McGUIRE: Yes.

1 BY MR. PERRY:

2 Q. Now, does this e-mail reflect -- I'm sorry.
3 This was -- I was told this was not in camera.
4 Apparently it is.

5 JUDGE McGUIRE: Now, which one are you talking
6 about?

7 MR. PERRY: The one that -- RX-1095. That's
8 what Mr. Stone just brought to my attention. I'll pass
9 on for now.

10 JUDGE McGUIRE: All right. Pass on for now.

11 Do you anticipate there's going to be any other
12 in camera testimony?

13 MR. PERRY: There is one more session,
14 Your Honor.

15 JUDGE McGUIRE: Okay. Good.

16 BY MR. PERRY:

17 Q. Mr. Lee, if you could just for -- to save that
18 for later so we don't have trouble looking for it,
19 could you put it up on top of that deposition
20 transcript. That will make things easier later.

21 JUDGE McGUIRE: Face down.

22 THE WITNESS: Yes.

23 BY MR. PERRY:

24 Q. Now, Mr. Lee, we're going to go back and talk
25 about SyncLink for just a little bit. This stack of

1 documents is not nearly as long as it looks.

2 And I want to start with something that's been
3 designated as RX-916, and it's dated April 17, 1997,
4 the same day as that e-mail we spent so much time
5 discussing, RX-920, that has that information from
6 Mr. Akiyama.

7 May I?

8 JUDGE McGUIRE: Yes.

9 (Pause in the proceedings.)

10 BY MR. PERRY:

11 Q. You've had a chance to review the entire
12 e-mail; right?

13 A. Yes.

14 Q. Is this an e-mail that you prepared and sent to
15 Yoshihiro Takemae, T-A-K-E-M-A-E, at Fujitsu in
16 April 1997?

17 A. Yes.

18 Q. And you had met Mr. Takemae at that
19 January 1997 SyncLink executive meeting that you had
20 attended and made a presentation at; right?

21 A. I'm not sure if that's when I first met him,
22 but I believe he was at that meeting.

23 Q. You sent a copy of this e-mail to Mr. Cloud and
24 Mr. Mailloux; correct?

25 A. Yes.

1 Q. Was Mr. Mailloux your boss at the time?

2 A. Yes.

3 Q. And Mr. Cloud was Mr. Mailloux's supervisor at
4 the time; right?

5 A. Yes.

6 Q. And the subject matter is SLDRAM and DDR. Do
7 you see that?

8 A. Yes.

9 Q. I want to talk to you about the first
10 paragraph.

11 You say to this gentleman at Fujitsu -- and by
12 the way, you understood him to be the general manager
13 of the DRAM department at Fujitsu?

14 A. He was a manager there and he was involved in
15 DRAMs. I'm not sure what his exact title was.

16 Q. You saw him at executive meetings of the
17 SyncLink Consortium; right?

18 A. I believe at this time I'd seen him at least at
19 a meeting, an executive meeting.

20 Q. You understood him to be an executive in charge
21 of DRAM-related functions at Fujitsu; right?

22 A. That's correct.

23 Q. And you say, "I would appreciate an opportunity
24 to discuss a few issues regarding SLDRAM and DDR with
25 you"; right?

1 A. Yes.

2 Q. And SLDRAM is the new name for the SyncLink
3 device; right?

4 A. Correct.

5 Q. "First," you say, "there had been have been
6 many concerns from the DRAM suppliers regarding the
7 Rambus contract and the requirement for sharing
8 intellectual property."

9 Do you see that?

10 A. Yes.

11 Q. When you say "Rambus contract," do you mean the
12 license agreement that the DRAM manufacturers were
13 signing with Rambus to manufacture the direct RDRAM
14 technology?

15 A. Yes.

16 Q. What did you mean by the requirement in the
17 contract to share intellectual property?

18 A. There was a provision in the contract that we
19 commonly referred to as patent pooling, and that
20 provision -- I don't recall the exact details, but it
21 had something to do with the requirement that if you
22 had some ideas that Rambus had the opportunity or
23 something to incorporate that in the RDRAM device and
24 would automatically be licensed to the other parties
25 without your choice.

1 Q. So tell me now about your understanding if
2 Micron, for example, in the course of designing its
3 version of the RDRAM came up with some way to improve
4 the RDRAM's performance and it was a new and useful
5 idea, you're saying that under the contract Rambus
6 would have the right to use that idea?

7 A. It's something along those lines. I'm probably
8 not the most expert to speak to that.

9 Q. I'm just asking for your understanding.

10 And as you understood what you were talking
11 about in this first paragraph of the e-mail to Fujitsu,
12 were you thinking about having the intellectual
13 property that resulted from an individual company's
14 improvements to the RDRAM to be held by the consortium?
15 Is that what you were thinking of, the
16 SyncLink Consortium?

17 A. No.

18 Q. What were you proposing as a solution to this
19 problem?

20 A. I think the solution was discussed with our
21 counsel, but without getting into the discussion with
22 counsel, the general concern was where we had done some
23 work that really wasn't related to direct RDRAM and
24 they somehow got knowledge of that and used that into
25 their RDRAM device and therefore cross-licensed it

1 without our intent.

2 Q. Well, let's move on to the second paragraph.

3 It says: "Second, we feel that the success of
4 DDR is important to SLDRAM and the success of SLDRAM is
5 important to DDR. However, after participating in the
6 DDR forum meetings this month, we were somewhat
7 discouraged about some of the problems that DDR still
8 faces."

9 Do you see that?

10 A. Yes.

11 Q. And what were you referring to -- well, strike
12 that.

13 Were you referring when you said "DDR forum
14 meetings" to those -- to that meeting, special meeting
15 on DDR that occurred April 4, 1997 in Santa Clara?

16 A. Yes.

17 Q. And you say that from the meetings it was
18 apparent that DDR is far behind SLDRAM in
19 understanding some of the challenges for high-speed
20 operation.

21 Do you see that?

22 A. Yes.

23 Q. And you believed that to be a true statement at
24 the time you made it?

25 A. Yes.

1 Q. Then if you look down a little bit more, do you
2 see the line that starts "Further," the sentence that
3 says, "Further, DDR seemed to be a random collection of
4 opinions rather than any sort of consensus."

5 Do you see that?

6 A. Yes.

7 Q. And as of April 1997, that was your view of
8 what was happening with DDR at JEDEC?

9 A. It is with regard to certain technical issues.

10 Q. Then you say: "Eventually, almost any idea
11 became a ballot. We are also concerned about the
12 probability of DDR supporters being able to resolve the
13 technical problems and consensus issues, considering
14 the organization of the meetings."

15 Do you see that?

16 A. Yes.

17 Q. Were you concerned that having a large group of
18 people in a committee-type arrangement was not the most
19 efficient way to design a high-bandwidth DRAM?

20 A. Certainly not the most efficient way to define
21 one, yeah. I think you used the term "design." That
22 wouldn't normally be what we do.

23 Q. Thank you for the correction. But with the
24 correction changing "design" to "define," you would
25 agree with it; correct?

1 A. That's correct.

2 Q. Well, in the next paragraph, the third
3 paragraph, the last sentence of that paragraph says,
4 "However, we heard comments from many customers at the
5 DDR meetings regarding their disappointment and their
6 expectations that DDR will fail."

7 Do you see that?

8 A. Yes.

9 Q. And that was a true statement as of April 1997
10 that you had heard those comments at JEDEC meetings?

11 A. We had heard specifically at some of these DDR
12 meetings that they were concerned about the rate of
13 progress.

14 Q. And then in the next paragraph, you say:
15 "Despite the problems with DDR, we are still
16 interested in helping to improve this situation.
17 However, we have heard even more disturbing
18 information. From several customers, we have heard
19 that Fujitsu has begun to speak negatively about the
20 possibilities of SDRAM."

21 Who had you heard that from?

22 A. I don't recall the customers at this time.

23 Q. You go on to say, "We have heard that Fujitsu
24 feels that SDRAM has taken a different direction and
25 that they do not support SDRAM strongly."

1 Do you see that?

2 A. Yes.

3 Q. Does that refresh your recollection about what
4 customer was telling you this?

5 A. No. I don't remember today which one it was.

6 Q. Then you say, "We are rather confused about the
7 wisdom of such statements."

8 When you said "we" in that sentence, did you
9 mean Micron?

10 A. Yes.

11 Q. And you say, "We don't believe that such
12 dissension amongst suppliers is in the best interest of
13 the industry, considering the current situation with
14 Intel-Rambus."

15 Did I read that correctly?

16 A. Yes.

17 Q. And what you were telling this executive at
18 Fujitsu is that the manufacturers ought to take a
19 unified position against Rambus; right?

20 A. That's incorrect.

21 Q. You were telling them that you didn't believe
22 that Micron -- strike that. Sorry.

23 What you were telling them -- isn't it the case
24 that what you were telling them is that dissension
25 amongst suppliers was not in the best interest of the

1 industry in Micron's view considering the current
2 situation with Intel-Rambus? Right?

3 A. Correct.

4 Q. Now, in the next paragraph, you say, in the
5 third sentence, "We have some concern that not only
6 Fujitsu's and Micron's ideas are different but that our
7 actions are opposed and they could slow progress of
8 each device."

9 What were you meaning -- what did you mean by
10 that?

11 A. What I was meaning in general by this document
12 and that statement is that we had worked together, the
13 companies, both DDR and SLDRAM, and for them to be a
14 commercial success we needed multiple supplier support,
15 and what we were confused by was the fact that Fujitsu
16 was involved in the technical development of each of
17 those and then at this point in time then they were
18 saying kind of negative things about it like, oh,
19 it's -- you know, we're not so strong on it, it's not
20 coming along, yet they were involved in the development
21 the solution themselves.

22 Q. And one of your concerns was that that
23 situation might slow progress of both DDR and SLDRAM;
24 right?

25 A. Yes.

1 Q. And you say, "Only Rambus would benefit in such
2 a situation."

3 Is that what you said?

4 A. Sorry. I lost the line.

5 Yes.

6 Q. And then it says, "We do not feel that it is
7 wise to have DDR compete with SLDRAM."

8 Is that what you told Fujitsu?

9 A. Yes.

10 Q. And when you said "we" in that sentence you
11 meant Micron?

12 A. Yes.

13 Q. Did Mr. Cloud or Mr. Mailloux contact you and
14 say that they disagreed with that statement?

15 A. No.

16 Q. And then you go on to say in the last sentence
17 of that next to last paragraph, "Rather, both efforts
18 should be a team to compete against proprietary
19 solutions."

20 Is that what you told the Fujitsu executive in
21 April 1997?

22 A. Yes.

23 Q. And by "proprietary solutions" did you mean
24 Rambus?

25 A. Rambus is included in that.

1 Q. Now, the last sentence says, "Would you be
2 interested in a conference call?"

3 Do you see that?

4 A. Yes.

5 Q. Did you have a conference call, after you sent
6 this e-mail, did you have a conference call with people
7 from Fujitsu about the contents of the e-mail or the
8 subject matters in the e-mail?

9 A. I don't recall that we did.

10 Q. Well, a few months later you went to Japan for
11 a SyncLink Consortium meeting. Let me ask you just a
12 few questions about the minutes from that meeting.
13 It's the June 11 and 12, 1997 meeting, RX-938.

14 May I?

15 JUDGE McGUIRE: Yes.

16 BY MR. PERRY:

17 Q. Do you see that you're listed as attending both
18 days of this meeting?

19 A. Yes.

20 Q. Do you remember, was Mr. Ed Heitzeberg at this
21 meeting?

22 A. I believe he joined later for the executive
23 meeting.

24 Q. And the executive meeting was the last day of
25 the week, Friday, June 13, 1997; right?

1 A. I believe that's correct.

2 Q. And at that meeting there were executives from
3 various companies that were members of the
4 SyncLink Consortium; right?

5 A. Yes.

6 Q. I just have one question about this first page
7 of these June 12 minutes.

8 Do you see where it says "We have two other
9 reflectors" about two-thirds of the way down the first
10 page?

11 A. Yes.

12 Q. It says "supply@hea.com for DRAM suppliers" and
13 "supplyexec@hea.com for the executives of DRAM supplier
14 companies."

15 Do you see that?

16 A. Yes.

17 Q. And was it your understanding that executives
18 of DRAM supplier companies could use that e-mail
19 reflector to communicate among themselves?

20 A. Yes. I believe it was again just a
21 redistribution of e-mail addresses.

22 Q. Did you pass that information on to
23 Mr. Heitzeberg, vice president of memory technology
24 at Micron, who came to the executive meeting on the
25 13th?

1 A. I don't recall if I did.

2 Q. Let me show you the minutes of the next meeting
3 of the consortium on July 15, 1997, RX-966.

4 May I, Your Honor?

5 JUDGE McGUIRE: Go ahead.

6 BY MR. PERRY:

7 Q. Do you see that the minutes list you as being
8 present for all three sessions of the July 15-16, 1997
9 consortium meeting?

10 A. Yes.

11 Q. Do you have any doubt that you were there for
12 at least some of the three sessions?

13 A. No.

14 Q. I just have a couple of questions about page 3,
15 if you could go to page 3 and review that material down
16 to the middle of the page. This won't take long.

17 (Pause in the proceedings.)

18 Now, do you see the reference to you where it
19 says "T. Lee, technical session, started 10:45"? Do
20 you see that?

21 A. Yes.

22 Q. And then three lines down there's some
23 information that begins, "Consortium should collect
24 information relevant to prior art and Rambus filings
25 and???"

1 Do you see that?

2 A. Yes.

3 Q. Not an opinion -- it says, "Not an opinion,
4 just collect material for all members to use. Dig out
5 early minutes of RamLink, et cetera."

6 Do you remember who was saying these things
7 that I just read?

8 A. No, I don't.

9 Q. Then it says: "Rambus will sue individual
10 companies instead of consortium. Companies will then
11 ask Gustavson, et cetera, for prior art info. Budget
12 effort for getting old minutes, et cetera, collected."

13 Who, if anyone, said at this meeting in
14 July 1997 Rambus will sue individual companies instead
15 of consortium?

16 A. I don't recall who made that statement.

17 Q. Do you remember somebody making that statement
18 at this meeting, Rambus is going to sue people?

19 A. No, I don't.

20 Q. Well, a little further down it says, "First
21 company to be sued will organize the materials and ask
22 for help from consortium."

23 Do you see that?

24 A. Yes.

25 Q. Does looking at this material bring back any

1 recollection of there being a discussion in the summer
2 of 1997 at an SLD RAM Consortium meeting of how to get
3 organized in case Rambus sued the individual members of
4 the consortium for patent infringement involving the
5 SyncLink device?

6 A. I don't recall this discussion specifically. I
7 just remember there was some general discussion in that
8 time frame where SyncLink had done some work that
9 continued from some work that was done with the SEI
10 group because there were some people that were part of
11 SEI on that committee and they felt they had done some
12 earlier work in the RamLink work, but that's about the
13 extent of my memory.

14 Q. And those folks that were holdovers from SEI,
15 they said that they thought their work would be prior
16 art to Rambus patents; right?

17 A. I think it was just on some specific issues
18 because in general we felt their device is very
19 different from the Rambus device.

20 MR. PERRY: Your Honor, this would be a good
21 time to take a short break if we could.

22 JUDGE McGUIRE: Okay. Let me just ask you, how
23 much more time do you intend to spend on cross,
24 Mr. Perry?

25 MR. PERRY: I want to make sure I give you a

1 good answer.

2 Quarter to five.

3 JUDGE McGUIRE: Okay. Then let's take a
4 ten-minute break and then I understand we're going to
5 go again back to the in camera session.

6 MR. PERRY: I will finish up right before I'm
7 done we'll have to go in camera for a bit.

8 JUDGE McGUIRE: Okay. And then maybe at that
9 time if we could, Mr. Oliver, have you conduct your
10 cross-examination of any in camera items if you could?

11 MR. OLIVER: That would be fine, Your Honor.

12 JUDGE McGUIRE: All right. Let's take a
13 ten-minute break.

14 (Recess)

15 JUDGE McGUIRE: Mr. Perry.

16 MR. PERRY: Thank you, Your Honor. I was able
17 to jettison some material during the break, so I
18 anticipate we'll be done by 4:30.

19 JUDGE McGUIRE: Very good.

20 BY MR. PERRY:

21 Q. Mr. Lee, I'd like to show you some materials
22 from another one of those executive meetings of the
23 SLDRAM Consortium. This one took place in Monterey in
24 June of 1998, and I'll ask you to look at RX-1202.

25 May I?

1 JUDGE McGUIRE: Go ahead.

2 BY MR. PERRY:

3 Q. And let me try to speed things up.

4 If you could just look at the agenda on the
5 second page, do you see where in the agenda on the
6 bottom slide it says "the SLD RAM technical advantages"
7 and then it says "Micron" next to it?

8 A. Yes.

9 Q. Well, look on page 12.

10 Do you see where it says "SLDRAM technical
11 advantages" and it has your name?

12 A. Yes.

13 Q. So do you think you were present at this SLD RAM
14 executive summit in June of 1998 in Monterey?

15 A. Yes.

16 Q. Okay. If you'll go back to the agenda, this
17 time on page 3, do you see a reference on the top slide
18 to guest speakers?

19 Do you see a reference on the top slide on
20 page 3 to guest speakers, right on page 3?

21 A. I'm sorry. I'm on the wrong page.

22 Q. Page 3 of the document.

23 A. Yes.

24 Q. And one of the guest speakers it says, "What
25 problem is solved by SLD RAM?" Then it says "Inquest."

1 Do you see that?

2 A. Yes.

3 Q. And then another one says "changes in DRAM
4 business model" and it says "DeDios."

5 Do you see that?

6 A. Yes.

7 Q. Well, let me show you some slides that we
8 received that I think relate to those presentations by
9 the guest speakers. It's RX-1185.

10 Now, do you see that this first slide says
11 "SLDRAM Executive Summit, What Problem Is Solved by
12 SLDRAM?"

13 A. Yes.

14 Q. It refers to a gentleman from Inquest named
15 Bert McComas?

16 A. Yes.

17 Q. Were you present for his presentation to the
18 SLDRAM executive summit in June of 1998?

19 A. Yes, I believe so.

20 Q. Well, let's look at the second slide on that
21 first page. It says, "What problems do we face?" And
22 the first bullet is: Tactical. It says, "Manage price
23 competition and profitability."

24 What did Mr. McComas say about how SLDRAM might
25 be used to solve the problem managing price competition

1 in DRAM industry?

2 A. I don't recall. I recall Bert giving a
3 presentation. I don't recall the details of the
4 presentation very well.

5 Q. Did he say anything about how to manage price
6 competition among DRAM suppliers at this conference?

7 A. I can only answer by repeating what's in the
8 remaining foils. I really don't remember this very
9 well.

10 Q. Okay. Well, he then has a bullet point that
11 says "strategic."

12 Do you see that on this first page?

13 A. Yes.

14 Q. It says: "Respond to the strategic threat of
15 Intel/Rambus. Who will control the DRAM industry?"

16 Do you see that?

17 A. Yes.

18 Q. By the way, who was there besides you from
19 Micron for this presentation? Was there an executive?

20 A. Yeah, there would have been. Probably
21 Gene Cloud.

22 Q. What did Mr. McComas say about the strategic
23 threat of Intel/Rambus in his presentation?

24 A. Again, I don't remember this very well. I'm
25 not much help here.

1 Q. Well, let me see if the next page refreshes
2 your recollection.

3 If you could bring up the top slide, let's
4 start with the top one.

5 That says: "Intel's Battle for Control.
6 Intel/Rambus are using your money to take control of
7 the DRAM industry."

8 Did Mr. McComas tell the assembled DRAM
9 executives that Intel and Rambus were using the DRAM
10 manufacturers' money to take control of the DRAM
11 industry?

12 A. Again, I think in the interest of time, I don't
13 think I'm much help on this whole foil set, so --

14 Q. You just didn't pay any attention?

15 A. I just don't remember this presentation very
16 well. I assume I was in the room, but maybe I wasn't.

17 Q. Well, let's go on a little bit more if we
18 could.

19 A. Okay.

20 Q. It says --

21 MR. OLIVER: Objection, Your Honor. He just
22 said he doesn't remember the foil set. I just don't
23 see the need to continue this line by line.

24 MR. PERRY: Your Honor, it won't take long,
25 but I'm entitled to see if it refreshes his

1 recollection.

2 JUDGE MCGUIRE: Go ahead, Mr. Perry.

3 BY MR. PERRY:

4 Q. On this same slide it says, "Intel will attempt
5 to control supply and demand for DRDRAM, orchestrate
6 early oversupply situation."

7 Were you, Mr. Lee, concerned at the time in
8 June of 1998 that Intel might try to orchestrate an
9 oversupply situation of RDRAM?

10 A. There were concerns in the industry -- I think
11 I shared those -- that Intel was manipulating supply.

12 Q. Of RDRAM?

13 A. Of DRAM memory products in general.

14 Q. And was there a concern that Intel might
15 orchestrate an oversupply of Rambus DRAM as well?

16 A. I believe the concern included Rambus as well.

17 Q. Now, if you'll look at the bottom slide,
18 please.

19 That one says, "Will Rambus dominate?" And in
20 the second bullet point says, "Will Rambus be
21 mainstream or specialty."

22 Now, putting aside how Mr. McComas was using
23 those terms, did you have an understanding in 1998 of
24 what mainstream memory was?

25 A. Mainstream would more typically be referred to

1 as main memory or the highest-volume memory, and
2 specialty typically would be things like graphics or
3 communications or usually non-main memory applications.

4 Q. And then it says "profitable or unprofitable,
5 high or low volume, oversupply or undersupply."

6 Do you see that?

7 A. Yes.

8 Q. Let me ask a specific question about
9 Mr. McComas' presentation of this slide.

10 Did Mr. McComas suggest when he was presenting
11 this slide to the DRAM executives that the
12 manufacturers send their respective RDRAM production
13 plans to him so that he could determine whether or not
14 there was an oversupply situation looming?

15 A. Again, I don't really recall this
16 presentation.

17 Q. Well, I want to try to refresh your
18 recollection with a different document that describes
19 that presentation.

20 A. Okay.

21 Q. This will just take a second. It's RX-1208.

22 And before I show this to you, let me say that
23 this was prepared by Infineon. There's references to
24 other meetings where you weren't at and I'm not going
25 to ask you anything about those other meetings.

1 A. Okay.

2 Q. I'm only going to ask you about a meeting you
3 attended.

4 May I, Your Honor?

5 JUDGE McGUIRE: Yes.

6 BY MR. PERRY:

7 Q. This was produced to us, as I said, by
8 Infineon, and if you'll look on page 4, you'll see a
9 reference to the SLDRAM executive meeting on Thursday,
10 June 25.

11 Do you see that?

12 A. Yes.

13 Q. And you remember that there was somebody from
14 Infineon at the meeting; right?

15 A. Yes. I believe they were Siemens at the time,
16 but yes.

17 Q. Right.

18 And I want you to look at the very last bullet
19 point. You can read the whole thing if you want, but
20 my only question is about the very last bullet point at
21 the bottom of this page.

22 (Pause in the proceedings.)

23 JUDGE McGUIRE: I'm going to ask you, Mr. Lee,
24 just to read that bullet point, and then if you feel
25 compelled to go back, then you can do so.

1 THE WITNESS: Yes. I'm sorry.

2 Is this page 4 then?

3 BY MR. PERRY:

4 Q. Page 4.

5 A. I was on the wrong page.

6 Q. The bullet point that starts, "What problem is
7 solved by SLDRAM (Guest Speaker Bert McComas)," do you
8 see that? Read that to yourself.

9 A. Okay.

10 Q. And one of the things it says in that bullet
11 point is, quote, "McComas made suggestion to the
12 audium" -- A-U-D-I-U-M -- "that every DRAM vendor sends
13 the Rambus production plan for the next year in order
14 to cross-check whether Intel has managed to generate an
15 oversupply situation."

16 Now, does that refresh your recollection that
17 Bert McComas, when he was making his presentation in
18 June of 1998 at the executive summit, suggested that
19 the DRAM manufacturers send their Rambus production
20 plans to him in order to cross-check whether Intel had
21 generated an oversupply situation?

22 A. Again, I just really don't recall it. Sorry.

23 Q. Well, it was your understanding at the time
24 that an oversupply situation would have the result of
25 lower RDRAM prices; right?

1 A. An oversupply situation would likely have the
2 effect of lower memory prices.

3 Q. Okay. Well, let's move on if we could, going
4 back to RX-1185. And I know you've said you don't
5 really recall any of this. Let me skip over to very
6 near the end at page 5.

7 The bottom slide says, "What should SLDRAM Inc.
8 become?"

9 Do you see that?

10 A. Yes, I do.

11 Q. And look over on the next page, page 6, and
12 I'll just ask you about this one more slide, this top
13 slide that says "Importance of SLDRAM Inc."

14 One of the bullet points there is that
15 fragmented competition undermines all DRAM
16 manufacturers, then it says, "SLDRAM will be as
17 powerful as we make it."

18 Did you hear Mr. McComas say those words in
19 this room of DRAM executives?

20 A. Again, I really don't recall his presentation
21 very well, so...

22 Q. Did any of the executives in the room, as you
23 recall it, stand up and leave during his presentation?

24 A. Stand up and leave?

25 Q. Yes. Make a public display of leaving during

1 his presentation?

2 A. It was not uncommon during this meeting -- it
3 was a pretty long meeting -- to get up, go outside,
4 have a cup of coffee, whatever. Perhaps that's why I
5 don't remember all of this.

6 Q. Let me ask you this.

7 Did anyone anybody stand up and say, I can't
8 stand this, I'm leaving, I'm not supposed to be
9 listening to this, this is wrong? Did anybody say that
10 as far as you can recall?

11 A. I don't remember any comments like that from
12 customers or suppliers, either one.

13 Q. Now, did you ever attend any meetings of an
14 organization known variously as M9, M11, M14?

15 A. I think I may have attended one meeting,
16 possibly two.

17 Q. Well, let me show you some e-mails produced to
18 us by IBM, RX-1257.

19 May I?

20 Now, this is a very short couple of e-mails. I
21 see that you're listed as a recipient of the top e-mail
22 and apparently as a sender of the bottom e-mail, so
23 take a look at it if you could.

24 (Pause in the proceedings.)

25 A. Okay.

1 Q. Did you attend a meeting of M9 in
2 September 1998 wherein Micron Electronics made a
3 presentation?

4 A. I was in attendance at an M9 meeting -- I think
5 that was the number; the number changed sometimes --
6 where Micron Electronics made a presentation.

7 Q. What did you understand M9 to be when you went
8 to the meeting?

9 A. My understanding of M9 was it was a -- I think
10 their agenda was to do some joint PR, some joint
11 promotion.

12 Q. And you understand M stood for manufacturers?

13 A. I don't remember what it stood for.

14 Q. And the number meant the number of
15 manufacturers that were members at the time of that
16 meeting?

17 A. I believe my understanding was that the number
18 represented the number of companies that were members
19 of the group. I'm not sure what the exact
20 organizational structure of it was.

21 Q. As you understood it, was Micron ever a member
22 of M9 or M11 or M14?

23 A. Yes. I believe so.

24 Q. And that's why you were going to the meeting;
25 right?

1 A. Yes.

2 Q. Who else went to M9 meetings or M11 meetings
3 from Micron?

4 A. I think Terry Walther and perhaps Mike Seibert
5 attended. Like I said, I think I attended one or two
6 meetings and that was about it.

7 Q. Now, moving off of M9 for the moment, were you
8 present for a meeting at Micron in Boise where Hyundai,
9 NEC, MOSAID and Siemens came to talk about the
10 incorporation of virtual channel architecture within
11 SLDRAM?

12 A. Yes. We hosted a meeting for SLDRAM and we
13 were looking at what we called SLDRAM II, the
14 next-generation SLDRAM, and we were exploring
15 architectural choices for that and virtual channel was
16 one of those architectures.

17 Q. And by the time you were considering virtual
18 channel, that was about the fall of '98; right, when
19 you were talking about SLDRAM II?

20 A. That sounds roughly correct.

21 Q. And Jeffrey Lee was there from NEC?

22 A. I don't recall the exact attendance, but I
23 think the companies that you mentioned were all
24 correct.

25 Q. Now, did you create any memoranda about that

1 meeting?

2 A. I don't recall.

3 Q. Did you take any notes at the meeting?

4 A. I don't recall that I did.

5 Q. And were you present for any discussion of
6 creating a new organization as a successor to SLDRAM at
7 that meeting?

8 A. I don't recall that discussion. I don't recall
9 the new organization. I do recall the new
10 architecture. It was primarily a technical meeting and
11 I attended for part of that.

12 Q. I've got a memo from the Infineon
13 representative who was there who purports to describe
14 an idea you had, and I want to show this to you and see
15 if it refreshes your recollection about what you
16 presented at that meeting. It's RX-2192.

17 May I?

18 JUDGE McGUIRE: Go ahead.

19 BY MR. PERRY:

20 Q. Now, I know that you didn't prepare this, but I
21 just want to talk to you for the time being about
22 page 3 that begins with your name.

23 So take your time and read that to see if it
24 brings back a recollection.

25 (Pause in the proceedings.)

1 A. Okay.

2 Q. Now, this says that at this meeting Terry Lee
3 presented the idea to integrate the fragmented
4 activities to define a future DRAM under the common
5 roof of SLDRAM Inc., possibly changing the name to
6 something like Future DRAM Inc."

7 Do you see that?

8 A. Yes.

9 Q. Does looking at that refresh your recollection
10 that you had come up with an idea in about this time
11 frame, fall of '98, about creating a new kind of
12 organization?

13 A. This refreshes my recollection, but I think the
14 way you'd asked the question was whether we were going
15 to create a new organization. I think this was a name
16 change.

17 Q. Tell me what it was that you came up with as an
18 idea.

19 A. What I recall about it was that it took a quite
20 a long time to work out the details of the consortium
21 to work together on these technical activities, and so
22 we felt one of the problems with the consortium was we
23 tied the name to a specific technology or a specific
24 definition, and so we thought it made sense to give it
25 more of a generic name and continue to use the

1 consortium to develop technology and develop kind of
2 future DRAM road maps going forward.

3 Q. Is this idea that you're just describing, was
4 that the genesis for what became ADT?

5 A. No.

6 Q. Was it the genesis for what became AMI-2?

7 A. No. I can't even exactly say that. This was
8 an idea we thought would be a reasonable way to take
9 benefit of the work that had already been done in the
10 consortium and set up the structure and continue
11 technical activities, but it really didn't get
12 approval.

13 Q. Okay. Had you discussed that idea with others
14 at Micron before you brought it up at this meeting?

15 A. For the name change?

16 Q. Yeah.

17 A. I'm not sure. It's possible that I talked
18 with Kevin Ryan, but I don't recall a specific
19 conversation.

20 Q. Well, look at the bottom of the prior page, if
21 you would. There's a reference, just before the top of
22 the third page where it talks about you, there's a
23 reference to Farhad Tabrizi.

24 Do you see the third bullet point up?

25 Do you see where it says "According to

1 Farhad Tabrizi"? Do you see that?

2 A. Yes.

3 Q. That says: "According to Farhad Tabrizi,
4 Hyundai has given Rambus ASP projections for end of
5 next year of two to three times today's SDRAM prices;
6 they also gave to Intel a production projection of
7 three times their actual plans. They encourage every
8 DRAM manufacturer to do the same in order to let Intel
9 not generate a Rambus oversupply."

10 Do you see that?

11 A. Yes.

12 Q. You heard Mr. Tabrizi say that in this
13 meeting?

14 A. No.

15 Q. Did you hear Mr. Tabrizi describe the
16 projections he had given to Rambus or Intel?

17 A. No. I think the top line says, "Other
18 information collected during and besides the meeting,"
19 so I suspect that was probably outside the meeting. My
20 company doesn't allow me to engage in those kind of
21 discussions with competitors.

22 Q. So you're certain that you did not hear
23 Mr. Tabrizi describe the fact that he had given Intel a
24 production projection of three times Hynix's actual
25 plans, you're certain of that?

1 A. I think this kind of information would have
2 been very unusual, so there's a higher likelihood that
3 I would have remembered that.

4 Q. So you're certain you didn't hear it?

5 A. To the best of my recollection.

6 Q. And you're certain that you'd never heard
7 Farhad Tabrizi encourage Micron to give Intel false
8 production projections in order to prevent Intel from
9 generating an oversupply of RDRAM?

10 A. I don't recall anything like that. I wouldn't
11 have taken any such advice.

12 Q. Well, let me show you an e-mail from
13 Mr. Tabrizi to you a few months later, February 1999,
14 RX-1386.

15 May I?

16 JUDGE McGUIRE: Go ahead.

17 BY MR. PERRY:

18 Q. Now, this was produced to us by Hynix, Mr. Lee,
19 and sometimes what they would do when they gave us
20 documents is, if it was a company name or a device
21 name, they would blot it out.

22 So I believe that Deepak Mithani worked at
23 Rambus. I know that to be a fact.

24 So you see that the word "Rambus" is blotted
25 out at the bottom in her e-mail address. And I can

1 represent to you that I believe that the blotted-out
2 part in the e-mail to you is "RDRAM," which they would
3 also blot out from time to time.

4 So let me just ask you if you recall
5 Mr. Tabrizi inquiring of you in February 1999 about
6 what Micron's projections were for its 1999 production
7 of RDRAM.

8 A. I don't really recall this, but I'm really the
9 wrong person to even ask that question. I'm not really
10 responsible for supply or pricing.

11 Q. But Mr. Tabrizi and you knew each other pretty
12 well; right?

13 A. Yes.

14 Q. Well, did he ask you in February 1999 to answer
15 a question about what Micron's 1999 RDRAM production
16 forecast was?

17 A. Well, in this e-mail he asks if it's a
18 possibility that the number in this Nikkei forecast is
19 possibly correct.

20 Q. He did send you this e-mail; right?

21 A. Yes.

22 Q. And he wanted you to confirm or deny the
23 published reports of what Micron's share of the RDRAM
24 market would be in 1999; right?

25 A. He seems to request that. I guess I'm pausing

1 here because I'm not sure from the article whether that
2 was meant to be '99.

3 Q. In the first paragraph it says "in 1999."

4 A. Okay. I guess he requested that.

5 Q. Did you send Mr. Tabrizi an answer?

6 A. I don't recall.

7 Q. Did you call him up and give him an answer?

8 A. I don't recall. I wouldn't have had the
9 information.

10 Q. You could have gotten it, couldn't you?

11 A. I suppose I could have in that I worked for
12 Micron, but I -- this just isn't part of my job
13 responsibilities. I'm a technical guy.

14 Q. Were you present at the meeting of the
15 SLDRAM Inc. board of directors when they voted to
16 change the name to AMI-2?

17 A. I was present at an executive meeting where we
18 were discussing what to do with the future of SLDRAM.
19 I think it was the last of the three executive
20 meetings. I'm not sure if I was there when they voted
21 on a name change.

22 Q. Let me show you some minutes, at least they
23 appear to be minutes of the SLDRAM Inc. board of
24 directors meeting from March 1999 produced to us by
25 Fujitsu, RX-1406.

1 May I?

2 JUDGE McGUIRE: Yes.

3 BY MR. PERRY:

4 Q. Do you see that you're listed as an attending
5 member?

6 A. Yes.

7 Q. Well, let me point you to the part of the
8 minutes that I want to talk to you about, and that's on
9 the third page.

10 I just wanted to ask you about the top third.

11 (Pause in the proceedings.)

12 This says, "JEDEC does much more than RAM,
13 staff is overloaded."

14 Do you see that?

15 A. Yes.

16 Q. And did you have -- you personally have some
17 frustration in '98 or '99 about the JEDEC staff?

18 A. I think I need to clarify something here in a
19 document. I think it's important.

20 Q. Sure.

21 A. I'm not sure if I was at this meeting even
22 though it has my name on the front of it.

23 Q. Oh, really. Okay.

24 A. I don't remember. And if you look at page 3,
25 there is a "Terry W." there. "It's okay for companies

1 to drop out if they want."

2 Q. So tell me where you're talking -- down at the
3 bottom?

4 A. Yeah.

5 So that would be Terry Walther, and Terry and I
6 both work at Micron marketing and sometimes there was
7 some confusion there, so it's odd that he wouldn't show
8 on the list of attendants but Terry W. is making a
9 comment down below. So I'm not --

10 Q. It's odd if he was making a comment you would
11 be listed in the attending list?

12 A. So I'm wondering if perhaps they put the wrong
13 Terry up there, which does happen sometimes.

14 Q. Let me just ask you if you remember being at a
15 meeting of SLDRAM where someone said, "We made a big
16 investment building this corporate shield. Avoids
17 antitrust problems."

18 Does that ring a bell?

19 A. I'm not sure. There's in fact here another
20 comment later on with Terry Walther's name specifically
21 spelled out, and then I don't recall a meeting at
22 Hitachi regarding SLDRAM, so I'm kind of questioning
23 whether I'm the right person here.

24 Q. Okay. I'll pass the document. That's fine.

25 A. Okay.

1 Q. Let me show you one where it was sent to both
2 you and Terry Walther, so I think I'm on safe ground
3 here. It's RX-1444, dated April 26, 1999.

4 May I, Your Honor?

5 JUDGE McGUIRE: Go ahead.

6 BY MR. PERRY:

7 Q. Now, let's pull up the bottom half of this
8 e-mail if we could.

9 Do you see that there's an article from
10 Electronic Buyers' News that's reproduced in this
11 e-mail?

12 A. I see that there's an article.

13 Q. And Mr. Ryan sends the article on to you with a
14 comment in April 1999?

15 A. Yes.

16 Q. And if you look in the article -- and I prefer
17 that you didn't take the time to read the whole
18 thing -- I'll point you in the article to page 3 of the
19 exhibit, and I'll ask you to look at the references in
20 the middle of the page to Samsung.

21 It says, "Despite direct RDRAM's schedule slip,
22 Samsung sees a market for about 40 million 128-Mbit
23 Rambus units in 1999."

24 Do you see that?

25 A. Yes.

1 Q. Now, going back to page 1 and focusing on
2 Mr. Ryan's comment, do you remember getting an e-mail
3 from Mr. Ryan in April 1999 that says, "Another article
4 showing that Samsung has broken ranks with the other
5 suppliers and sold their soul to the devil"?

6 A. I remember the article. I don't -- I don't
7 specifically recall that he forwarded it to me, but
8 obviously he did from this.

9 Q. Do you remember getting an e-mail from Mr. Ryan
10 that said that there was an article showing that
11 Samsung had broken ranks with the other suppliers and
12 sold their soul to the devil?

13 A. I remember the general discussion of the
14 article that occurred.

15 Q. Do you remember getting an e-mail with that
16 statement in it?

17 A. Do I remember today receiving it specifically?

18 Q. Yes.

19 A. No. Do I see my name on here? Yes.

20 Q. And then there's a response up above that to
21 Mr. Ryan from M. Seibert.

22 Do you see that?

23 A. Yes.

24 Q. S-E-I-B-E-R-T.

25 What was his position in April of 1999?

1 A. I think -- I don't recall what his title was,
2 but Mike Seibert was responsible for -- he was doing
3 kind of segment marketing. He was working with -- he
4 had focus on chipset suppliers.

5 Q. And he responded to Mr. Ryan, "No kidding,
6 Kevin."

7 And the Kevin there is Kevin Ryan; right, as
8 you understood it?

9 A. Yes.

10 Q. He said: "These guys are big trouble for us
11 all. If this thing gets into an oversupply mode with
12 RDRAM, things could get really ugly. Bob and Jeff, do
13 these idiots (Samsung in this case) understand what the
14 Rambus-Intel biz model will do to our autonomy?"

15 Do you remember getting that e-mail from
16 Mr. Seibert in April of 1999?

17 A. The thing that I remember specifically is I
18 remember aspects of the article and I remember some
19 discussion that followed their e-mail.

20 Q. And do you remember that Mr. Seibert asked
21 questions of Bob Donnelly and Jeff Mailloux about
22 whether Samsung understood what the Rambus-Intel
23 business model would do to the autonomy of the DRAM
24 manufacturers?

25 A. Only from the context of this e-mail. I think,

1 just to try to speed things along, I think the issue is
2 I have a general recollection. Your questions are more
3 specific than my recollection.

4 Q. I am trying to ask specific questions, but I
5 just have a couple more.

6 Do you see that Bob Donnelly, the
7 vice president of DRAM products at the time, responded
8 to Mr. Seibert's e-mail?

9 A. I see that he responded, yes.

10 Q. And he copied you; right?

11 A. Yes.

12 Q. And he said, "I've certainly made the point
13 with the officers that Intel is essentially disabling
14 our marketing, apps and design, and other key parts of
15 the company, and ultimately could control the DRAM
16 industry the same as they have others."

17 Do you see that?

18 A. Yes.

19 Q. And you understood at the time that he was
20 referring to that he has made the point with the
21 officers of Samsung; correct?

22 A. No. That's Micron officers.

23 Q. You understood that Mr. Donnelly was saying he
24 had talked to the officers of Micron; is that your
25 testimony?

1 A. That's my understanding, yes.

2 Q. You understood that the question that Bob --
3 that was asked by Mr. Seibert to Bob and Jeff was
4 whether Samsung understood. Do you see that?

5 A. Yes.

6 Q. And that was what you understood at the time;
7 right?

8 A. I'm sorry. I'm having a little trouble with
9 the siren.

10 Q. Let's wait for the siren to subside.

11 JUDGE McGUIRE: Take a break. Take a couple
12 minutes.

13 (Pause in the proceedings.)

14 BY MR. PERRY:

15 Q. And you understood that Mr. Donnelly had
16 answered that question by talking about Micron's
17 officers; is that your testimony?

18 A. Yes.

19 Q. Well, I want to switch gears a little bit and
20 talk a little bit about some of the road maps that you
21 talked about yesterday with Mr. Oliver.

22 A. Okay.

23 Q. Do you remember some of these marketing
24 presentations? I just have a few questions about each
25 of them. They're thick documents. I would prefer to

1 point you to the places where I'd like to talk to you
2 about since you identified these yesterday.

3 And I'm going to start with CX-2735. That
4 should be near the bottom of your stack, April 1999.
5 It's called Micron DRAM Update, April 1999.

6 A. 2735?

7 Q. 2735.

8 Do you have that?

9 A. Yes.

10 Q. And I'm going to rely upon the record
11 Mr. Oliver laid yesterday to describe this document.
12 I'm going to move forward simply to a page that you
13 talked about with him, page 35.

14 And this says, "Micron has three direct Rambus
15 testers"; right?

16 A. Yes.

17 Q. And you talked about problems with Rambus
18 testers yesterday.

19 My question simply is: What did Micron do with
20 its three direct Rambus testers?

21 A. What do you mean, what did we do with them?

22 Q. You don't manufacture direct Rambus anymore, do
23 you?

24 A. No. Not at this time.

25 Q. You never manufactured it in production volume,

1 did you?

2 A. We internally validated the part and we did
3 send some samples, but we never produced it in large
4 volumes.

5 Q. So you never even needed three direct Rambus
6 testers, did you?

7 A. Our projection was that we needed quite a bit
8 more than that.

9 Q. But it didn't turn out that you needed them;
10 right?

11 A. I don't think we needed them for the volumes
12 that we produced.

13 Q. And you were then able to use those testers to
14 test DDR; right?

15 A. No, not exactly.

16 Q. You had to modify them?

17 A. I get all of this information through my test
18 department, but I had heard a discussion even fairly
19 recently that we got stuck with some orders for some
20 Rambus testers that we weren't able to use for our
21 current products.

22 Q. Have you tried selling them to Samsung?

23 A. I don't know. I have no idea what they do with
24 that stuff.

25 Q. Do you have any knowledge as to whether or not

1 Samsung is making money making RDRAM? Do you know one
2 way or the other?

3 MR. OLIVER: Objection, Your Honor. Lack of
4 foundation.

5 JUDGE McGUIRE: Sustained.

6 BY MR. PERRY:

7 Q. Let me look at -- let me ask you about CX-2737.
8 It's your May 1999 -- it's a different document,
9 Mr. Lee. I'm sorry. I'm going too fast. May '99.
10 RX-2737.

11 A. Okay.

12 Q. And I'll just ask you to look at page 40. It
13 says "DDR SDRAM Overview."

14 Do you see that?

15 A. Yes.

16 Q. And it refers to eleven DRAM vendors
17 collaborating to enable the standard (M11 group).

18 Do you see that?

19 A. Yes.

20 Q. Was Micron a member of the M11 group at the
21 time that this May '99 DRAM product update was
22 prepared?

23 A. I believe they were. That's the changing
24 number from what I told you about earlier.

25 MR. PERRY: Your Honor, I've come to the spot

1 where I need to do some in camera work and then we'll
2 be done.

3 JUDGE McGUIRE: Okay. Very good.

4 Again, the audience, I apologize, but we're
5 going to have to again go into closed session, so all
6 of you who aren't cleared to hear this evidence, please
7 excuse yourselves from the courtroom and it will be
8 indicated to you when we go back into the public
9 session.

10 (Pause in the proceedings.)

11 JUDGE McGUIRE: Mr. Oliver, can you again
12 certify that everyone on your side of the aisle is
13 cleared for this testimony?

14 MR. OLIVER: Again, for Micron information,
15 yes.

16 JUDGE McGUIRE: And Mr. Perry?

17 MR. PERRY: It is all Micron information, and I
18 can certify that the folks on the Rambus side are all
19 authorized to --

20 JUDGE McGUIRE: Very good. Then at this time
21 this hearing is now in in camera session.

22 (The in camera testimony continued in
23 Volume 34, Part 2, Pages 7066 through 7091, then
24 resumed as follows.)

25 JUDGE McGUIRE: Then at this time we are back

1 in the public session of this hearing.

2 MR. OLIVER: I'm sorry, Your Honor. Could we
3 have just one more minute?

4 JUDGE McGUIRE: Go ahead.

5 MR. OLIVER: I had some documents set aside,
6 but in the flurry of documents this afternoon I believe
7 we've managed to misplace them.

8 JUDGE McGUIRE: Go ahead.

9 (Pause in the proceedings.)

10 BY MR. OLIVER:

11 Q. Okay. Mr. Lee, I have a question just I think
12 in four topics. I think we'll be fairly brief.

13 First, I did want to ask one follow-up
14 question, or perhaps more than one, but at least
15 initially one follow-up question on a document that was
16 showed to you fairly early this morning. This is
17 CX-1314.

18 If we can bring this up on the computer screen,
19 and again if you can let me know if you want to find
20 the paper copy, we can do that or try to --

21 A. I'm just going to try to look off the screen at
22 this point.

23 Q. This is a document entitled Micron December 14,
24 1995 with certain slides.

25 Do you recall that Mr. Perry asked you about

1 page 1 and page 2 and at that time you could not recall
2 having seen those slides?

3 I want to ask you about one other page and see
4 if that refreshes your recollection.

5 A. Okay.

6 Q. If we could turn, please, to page 3.

7 And if we could blow up the top slide.

8 It's a bit difficult to read, but it appears to
9 be a slide. In the left-hand side it's a diagram ASIC
10 and then there's eight horizontal wavy lines and then
11 two vertical sets of blocks, it says "DRAM" and then
12 underneath that in the third bullet point "110 pins to
13 memory" and in the right-hand side ASIC and there is a
14 line standing horizontally to RDRAM and then the third
15 bullet point of that "31 pins to memory."

16 I simply want to ask if that refreshes your
17 recollection as to whether you've seen that slide as
18 part of any Rambus presentation to Micron in December
19 of 1995.

20 A. Again, I don't recall the specifics of the
21 presentation that they gave us at the time. It was
22 just this kind of nature, if you will. This kind of
23 figure and stuff was available I think on their Web
24 site and some of their literature.

25 Q. Okay. If you don't recall having seen that at

1 that time, I'll simply move on.

2 Next, Mr. Lee, I wanted to follow up on a
3 couple of documents that Mr. Perry asked you about this
4 morning.

5 First was RX-855, and this is a set of the
6 minutes from the SyncLink meeting of January 14 and 15,
7 1997.

8 And if we could go down towards the bottom of
9 the page, there's a two-line paragraph beginning
10 "Siemens." And Mr. Perry asked you some questions
11 about portions of this, this paragraph here, and I'd
12 like to focus on certain portions he did not ask you
13 about.

14 First let me identify the entire passage. It
15 reads: "Siemens was eloquent. No future RB road map.
16 Letting one company control industry is crazy.
17 0.1 percent royalty okay, 1-2 percent ridiculous. RB
18 not acceptable. We should address PC market also."

19 Do you see that, that statement there?

20 A. Yes.

21 Q. Now, my question is: At the time that you saw
22 these minutes, what, if any, was your understanding of
23 the statement "0.1 percent royalty okay"?

24 A. He was -- Mr. von Zitzewitz was describing at
25 that meeting that for the Rambus interface technology

1 had the royalty been on the order of .1 percent they
2 wouldn't have had a problem with it and he thought the
3 1 to 2 percent royalty rate was ridiculous for what
4 they were asking for.

5 Q. If we could then bring up RX-852, please.

6 This is an e-mail that Mr. Perry again asked
7 you about this morning. I believe that you said that
8 you wrote the portion of it beginning in the lower part
9 of the first page, going over to the second page; is
10 that right?

11 A. Yes.

12 Q. If we could turn to the second page, again, the
13 next to last paragraph underneath Siemens.

14 And here again you recall that Mr. Perry asked
15 you about certain portions of this paragraph? Do you
16 recall that?

17 A. Yes.

18 Q. Again, I'd like to pick up a couple things that
19 he did not ask you about.

20 First, if you look in the fourth line, again,
21 there's a reference "0.1 percent royalty would have
22 been okay."

23 Do you see that?

24 A. Yes.

25 Q. Now, is that essentially the same reference as

1 to which you just testified a moment ago?

2 A. Yes. I believe so.

3 Q. If I could direct your attention to the second
4 line of that paragraph, it reads, "License is okay for
5 niche but not for main memory."

6 Do you see that?

7 A. Yes.

8 Q. Could you please explain your understanding of
9 that statement at the time that you wrote this.

10 A. Yes. He had made a statement on the order that
11 having a license fee for some small-volume product
12 would be reasonable, but it didn't make sense for a
13 very high-volume product of that magnitude for main
14 memory.

15 Q. And did you have an understanding at that time
16 of why?

17 A. Of why he felt that way?

18 Q. Yes.

19 A. I guess I don't -- I can't really speak for
20 what his feeling was on it.

21 Q. Let me ask you a different question then.

22 At that time did you agree with that
23 statement?

24 A. I would agree that the kind of royalty rate
25 that was being requested there, the 2 percent, was

1 larger than anything we'd ever heard of for an
2 interface technology and certainly the largest thing we
3 ever heard of for some sort of fee we'd have to pay to
4 produce main memory.

5 Q. Switching topics again, Mr. Lee, during your
6 testimony this morning, you referred I believe to
7 patents for defensive purposes. Do you recall that?

8 A. Yes.

9 Q. And I was wondering if you could just simply
10 explain for the record what you meant by that reference
11 to patents for defensive purposes.

12 A. In the context of SyncLink? Was that the
13 statement you're referring to?

14 Q. Yes.

15 A. Okay. Our concern was that we were coming up
16 with innovations, new ideas for this architecture that
17 we were doing, and we were concerned that later on some
18 company might try to assert patents on as far as our
19 innovations, and so the only way to protect ourselves
20 was to file patents.

21 Q. And could you explain how filing patents would
22 allow you to protect yourselves.

23 A. As I understand it, it would establish a pretty
24 clear priority date and establish inventorship.

25 Q. And then the final thing I wanted to ask you

1 about, Mr. Lee, was with respect to the SyncLink
2 meetings generally.

3 Now, based on your observations at the meetings
4 that you attended, did representatives of any Micron
5 customers attend SyncLink meetings?

6 A. Yes. Regularly.

7 Q. Can you identify Micron customers who sent
8 representatives to the SyncLink meetings?

9 A. Sure. Some of the customers include IBM, HP,
10 Motorola. There were some -- Apple was there. There
11 were some -- also some connector suppliers and some
12 other different companies that attended.

13 Q. And so would it be fair to say that for
14 various discussions that have been summarized here
15 today that Micron customers were present at those
16 discussions?

17 MR. PERRY: Objection. Compound. Leading.
18 Doesn't refer to any particular discussion.

19 MR. OLIVER: Your Honor, I'm simply trying to
20 save time at this point at this time of day.

21 MR. PERRY: The minutes will show who was
22 present. If it was inside the SyncLink meeting, we've
23 got memos that describes who's present.

24 JUDGE McGUIRE: Overruled. I'll hear the
25 question.

1 MR. OLIVER: Thank you, Your Honor.

2 THE WITNESS: It was typical, I think always
3 the case, that we had customers at those meetings.

4 MR. OLIVER: I have nothing further,
5 Your Honor.

6 JUDGE McGUIRE: Thank you, Mr. Oliver.
7 Mr. Perry, further recross?

8 MR. PERRY: I just have a couple, Your Honor.

9 RE-CROSS-EXAMINATION

10 BY MR. PERRY:

11 Q. I'm going to ask that we bring back up on the
12 screen RX-855 that Mr. Oliver showed the witness, and
13 that's the SyncLink or SLDRAM Consortium minutes for
14 January 14 and 15, 1997.

15 And you were present for this; right, Mr. Lee?

16 A. Yes.

17 Q. Let's look at the bottom half, please.

18 Let's bring up the part -- yeah, just bring up
19 the whole part of it.

20 And what Mr. Oliver was asking you about was
21 the reference to the discussion by Siemens in the
22 Yokohama meeting January 10 of the royalty rates that
23 Siemens was paying for the Rambus license; right?

24 A. I don't think he specifically said that that's
25 what they were paying. He just said these ranges were

1 appropriate or inappropriate.

2 Q. Was it common for you to be in a room of your
3 competitors where your competitors were talking about
4 what their prices were that they were paying for
5 anything?

6 A. No.

7 Q. Do you think it's appropriate -- strike that.
8 Did anyone at the meeting of DRAM executives
9 say that it was inappropriate for Siemens to be
10 expressing its views to its competitors that it didn't
11 like paying 2 percent to Rambus as a royalty?

12 MR. OLIVER: Objection, Your Honor.
13 Mischaracterizes the document.

14 BY MR. PERRY:

15 Q. Let me ask it this way.

16 JUDGE McGUIRE: Restate.

17 BY MR. PERRY:

18 Q. Did any DRAM executives stand up and say to
19 Mr./Dr. von Zitzewitz from Siemens that he shouldn't be
20 talking about pricing in front of his competitors?

21 A. I don't think this is pricing. This represents
22 a cost.

23 Q. Is it your understanding that Micron's
24 employees aren't supposed to talk about the costs that
25 Micron pays for things in front of their competitors?

1 A. We -- talking about relative cost isn't really
2 a problem, but again, I don't see where Siemens has
3 stated that this is what they're paying.

4 Q. You understood Dr. von Zitzewitz to be saying
5 that nobody, no DRAM manufacturer should agree to pay
6 1 percent or 2 percent on main memory; right?

7 A. No. I think that mischaracterizes again. I
8 think what he said was these kind of numbers were
9 reasonable and these kind of numbers were ridiculous.

10 Q. And he was urging the rest of the DRAM
11 manufacturers to adopt the same view; right?

12 A. I disagree.

13 Q. Did anyone stand up and say to
14 Mr. von Zitzewitz that it was inappropriate in their
15 view for him to be talking about prices, royalty rates,
16 in front of a roomful of competitors?

17 A. No.

18 MR. PERRY: I have nothing further.

19 JUDGE McGUIRE: Okay. Thank you very much.

20 MR. OLIVER: Nothing further, Your Honor.

21 JUDGE McGUIRE: I guess that's it today,
22 Mr. Lee. You're excused from this proceeding and thank
23 you for your testimony.

24 THE WITNESS: Thank you.

25 JUDGE McGUIRE: Could I ask you, Mr. Oliver,

1 what's on tap for tomorrow?

2 MR. OLIVER: Your Honor, tomorrow we begin the
3 testimony of our economic expert, Professor McAfee.

4 JUDGE McGUIRE: And you're still on case to
5 conclude your case in chief by the end of the month?

6 I mean, I thought that was our understanding
7 from a few days ago.

8 MR. OLIVER: Yes, Your Honor. We've fallen
9 slightly behind schedule with respect to depositions.
10 I still hope that we can do it by the end of the day
11 Monday, but it's a little less sure at this point.

12 JUDGE McGUIRE: We'll see how it goes.

13 MR. PERRY: And if it's appropriate, we'd like
14 to move in some exhibits at the beginning of tomorrow.

15 JUDGE McGUIRE: That's fine.

16 All right. This hearing is excused until 9:30
17 in the morning.

18 (Time noted: 5:07 p.m.)

19

20

21

22

23

24

25

1 C E R T I F I C A T I O N O F R E P O R T E R

2 DOCKET NUMBER: 9302

3 CASE TITLE: RAMBUS, INC.

4 DATE: June 24, 2003

5

6 I HEREBY CERTIFY that the transcript contained
7 herein is a full and accurate transcript of the notes
8 taken by me at the hearing on the above cause before
9 the FEDERAL TRADE COMMISSION to the best of my
10 knowledge and belief.

11

12 DATED: June 24, 2003

13

14

15

16 JOSETT F. HALL, RMR-CRR

17

18 C E R T I F I C A T I O N O F P R O O F R E A D E R

19

20 I HEREBY CERTIFY that I proofread the
21 transcript for accuracy in spelling, hyphenation,
22 punctuation and format.

23

24

25 DIANE QUADE

