

1 FEDERAL TRADE COMMISSION
2 I N D E X (PUBLIC RECORD)
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4 WITNESS: DIRECT CROSS REDIRECT RECROSS
5 Vincent 7875
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7 EXHIBITS FOR ID IN EVID
8 CX
9 Number 1985 7900
10 Number 1982 7901
11 Number 1948 7901
12 Number 2558 8032
13 Number 2561 8032
14 Number 3111 8033
15 Number 3112 8034
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17 RX
18 Number 335 7901
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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of:)
Rambus, Inc.) Docket No. 9302
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Monday, June 30, 2003
9:31 a.m.

TRIAL VOLUME 38
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

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P R O C E E D I N G S

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3 JUDGE McGUIRE: This hearing is now in order.
4 Counsel, how are you doing this morning? I
5 hope you had a good weekend.

6 Any items that should come to the court's
7 attention this morning before we begin?

8 MR. OLIVER: No, Your Honor.

9 JUDGE McGUIRE: Mr. Stone?

10 MR. STONE: No, Your Honor.

11 JUDGE McGUIRE: If not, then complaint counsel
12 may call its next witness.

13 MR. OLIVER: Complaint counsel calls
14 Mr. Lester Vincent.

15 JUDGE McGUIRE: Mr. Vincent, would you please
16 approach the bench and then you'll be sworn by the
17 court reporter.

- - - - -

18
19 Whereupon --

20 LESTER VINCENT

21 a witness, called for examination, having been first
22 duly sworn, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. OLIVER:

25 Q. Good morning, Mr. Vincent.

1 A. Good morning.

2 Q. How are you today?

3 A. Okay.

4 MR. OLIVER: Your Honor, before I proceed,
5 because we're in a somewhat unusual posture given that
6 we're taking Mr. Vincent out of order and we have
7 previously read a portion of his deposition transcript,
8 I thought I'd just take a moment to explain to you, to
9 respondent and also to Mr. Vincent just what we do want
10 to try to accomplish here today.

11 JUDGE MCGUIRE: All right. Go ahead.

12 MR. OLIVER: First of all, because a fair
13 number of matters were covered with the deposition
14 readings, we do not expect this morning to be covering
15 background matters, any matters before December 1991,
16 anything regarding the preparations for enforcement of
17 the '327 patent with respect to Mosys, the withdrawal
18 letter, and document retention or document
19 destruction.

20 We do intend to cover issues relating to
21 foreign patents and also issues related to events
22 between December 1991 and June 1996.

23 Now, with respect to the events between
24 December 1991 and June 1996, that will involve going
25 back over some of the documents that have been

1 discussed previously. We expect that we will be able
2 to avoid most of the questioning we've done before. We
3 expect we will have to ask a few questions in order to
4 set in context some additional documents that we have
5 not had a chance to ask about.

6 JUDGE McGUIRE: Okay. Mr. Oliver, you may
7 proceed.

8 BY MR. OLIVER:

9 Q. Mr. Vincent, I'd like to ask just a few basic
10 background questions before we start.

11 First of all, you were deposed in connection
12 with the private litigation between Rambus and
13 Infineon; is that right?

14 A. Yes.

15 Q. And were you represented by counsel in
16 connection with those depositions?

17 A. Yes.

18 Q. Who was your counsel?

19 A. Gray Cary.

20 Q. That was the same counsel that represented
21 Rambus in that matter?

22 A. Yes.

23 Q. Who paid your counsel in connection with that
24 matter?

25 A. Rambus.

1 Q. You were also deposed in connection with the
2 litigation between Rambus and Micron?

3 A. Yes.

4 Q. And were you represented by counsel in that
5 matter?

6 A. Yes.

7 Q. And who was your counsel in that matter?

8 A. Gray Cary.

9 Q. And who paid for your counsel in that matter?

10 A. Rambus.

11 Q. Are you represented by counsel here today?

12 A. Yes.

13 Q. Who is your counsel today?

14 A. The firm Munger, Tolles & Olson.

15 Q. And who is paying your counsel in connection
16 with this matter?

17 A. Rambus.

18 Q. Now, Mr. Vincent, a part of your work on behalf
19 of Rambus between 1991 and June 1996 involved foreign
20 patent filings; isn't that right?

21 A. Yes.

22 Q. And one of the things that you did was to
23 counsel Rambus representatives with respect to the
24 countries in which they should file patent
25 applications?

1 A. Yes.

2 Q. And another one of the things that you did was
3 try to ensure that various changes were made to foreign
4 filings in order to track some of the changes made to
5 United States filings; is that right?

6 MR. STONE: Your Honor, I'm going to object
7 that this invades the area of attorney-client privilege
8 with respect to the work that he did with respect to
9 foreign filings which were not the subject of
10 Judge Payne's order.

11 MR. OLIVER: Your Honor, I'll withdraw that
12 question.

13 JUDGE MCGUIRE: All right. Thank you.

14 MR. OLIVER: Your Honor, we do have one
15 in camera document that we expect to be discussing
16 today, and that's going to be coming up next, so at
17 this point I would like to continue the proceedings
18 in camera.

19 JUDGE MCGUIRE: Okay. To the audience then,
20 let me just advise you, as I have before, that due to
21 the prior order issued in this case, the testimony
22 we're about to hear is closed to the public, and we'll
23 open the door at the time when it's open again for
24 public session.

25 MR. OLIVER: I can add Your Honor, I expect

1 this to be very short, I expect five minutes.

2 JUDGE McGUIRE: Again, I'll ask that counsel
3 certify to the court that everyone at their table and
4 everyone behind them is clear for access to this
5 in camera evidence.

6 MR. OLIVER: Yes, Your Honor, we can certify.

7 MR. STONE: It's Rambus information?

8 MR. OLIVER: Yes, it is.

9 MR. STONE: And I understand it's Rambus
10 information and so I can certify on behalf of
11 respondent.

12 JUDGE McGUIRE: Thank you.

13 To the court reporter, we are now in in camera
14 session.

15 (The in camera testimony continued in
16 Volume 38, Part 2, Pages 8046 through 8049, then
17 resumed as follows.)

18 BY MR. OLIVER:

19 Q. Mr. Vincent, if I could ask you to look at the
20 next document in the left-hand stack of documents. If
21 you'll look in the lower right-hand corner, you should
22 see a number CX-1982.

23 A. Yes.

24 Q. This is a document the cover page of which
25 bears the caption PCT Countries as of March 23, 1995.

1 The first two pages then consist of a list, and after
2 that, there's a series of pages with the caption
3 Rambus, Inc. Report, and then towards the back there's
4 a series of drawings.

5 A. Okay. Let me take a look through here.

6 (Pause in the proceedings.)

7 Q. Mr. Vincent, I'd like to ask you a question
8 about certain pages. If I could ask you to turn first
9 to page 3.

10 A. Yes.

11 Q. Then let me ask first if you can explain what
12 this page is.

13 MR. STONE: Your Honor, I think the proper
14 foundation would be first to ask him if he's ever seen
15 it before before we ask him about the contents or
16 substance of it. I object on the grounds of lack of
17 foundation.

18 MR. OLIVER: I'll withdraw the question then.

19 BY MR. OLIVER:

20 Q. Have you seen this document before?

21 A. I'm a little shaky on whether I have or not. I
22 may have. I'm just not entirely sure.

23 Q. But do you have an understanding of the
24 contents of page 3?

25 A. You mean from what it says from the face of it

1 or whatever? It says it's a report and lists a matter
2 number and some other information.

3 Q. Do you have a recollection of having prepared
4 reports of Rambus patents?

5 A. Yes.

6 Q. And do you have a recollection of having
7 prepared reports of Rambus' pending patent
8 application?

9 A. Yes.

10 Q. And does the document at page 3 appear to be
11 one of those reports?

12 A. No. Not one that I had prepared.

13 Q. Do you recall that Rambus had a pending patent
14 application in India as of approximately 1995?

15 A. Yes.

16 Q. And you recall that that patent involved
17 integrated circuit I/O using a high-performance bus
18 interface?

19 A. Yes.

20 Q. And do you also recall that that patent
21 application was in substance similar to the first
22 patent application Rambus filed in the United States?

23 A. Yes.

24 Q. Do you recall that as of 1995 Rambus had a
25 pending patent application known as a PCT application?

1 A. Yes.

2 Q. Can you please explain your understanding of
3 what PCT stood for at that time?

4 A. PCT stands for Patent Cooperation Treaty. It's
5 a -- do you want me to explain it?

6 Q. Yes, please.

7 A. Yeah. A PCT application is a -- it's a
8 mechanism where you file a patent application. It's
9 then put in a certain format and published. It's
10 World Intellectual Property Organization, WIPO. It's a
11 creation of that, and it allows one to file a PCT
12 application and then after a certain period of time
13 then go from the PCT and enter various foreign
14 countries at the end of the period.

15 It's sort of like a waiting period and during
16 that waiting period certain formalities are done and
17 the patent application is published.

18 Q. Now, was it your recollection that the PCT
19 application was based on Rambus' first United States
20 patent application?

21 A. Yes.

22 Q. And it had the same priority date?

23 A. Yes. You get the priority date when you file a
24 PCT application.

25 Q. Now, is it your recollection that as of

1 approximately 1995 Rambus had an issued patent in
2 Taiwan?

3 A. I believe that's correct.

4 Q. And again, the original patent application in
5 Taiwan was also based on Rambus' first patent
6 application in the United States?

7 A. In terms of base, Taiwan does not, because it's
8 not technically a country -- I mean, according to the
9 international community -- at least the People's
10 Republic of China doesn't think so. It's not party to
11 the various treaties that other countries have where
12 you give them priority, so you don't get priority on a
13 Taiwan application to a U.S. application.

14 But the disclosure or the specification in the
15 Taiwan application is the same as the original filed
16 U.S. case.

17 Q. And the claims in the filing in Taiwan were
18 identical to the claims in the original U.S. filing as
19 well?

20 A. I believe that's the case, original file, yeah.
21 Well, you know what. I want to back up. You know, I
22 haven't looked at it in a while, so I don't -- I'd have
23 to check, but I don't -- I don't recall actually. But
24 the specification would have been the same. The claims
25 may have been the same. I just don't know without

1 checking.

2 Q. Is it also your recollection that during the
3 1991 to 1996 time frame Rambus had various patent
4 applications pending in Israel?

5 A. I don't know about various. I remember there
6 was at least one.

7 Q. Do you remember there was at least one that
8 again in substance was identical or very similar to the
9 original filing in the United States?

10 A. I believe that's the case, yes.

11 Q. Now, is it also your recollection between
12 1991 and 1996 Rambus had a patent application pending
13 in Europe?

14 A. That, I don't exactly remember. I'm not sure.
15 I'd have to check.

16 Q. If I could ask you to turn to page 19 of this
17 document.

18 A. Yes.

19 Q. Actually before I ask you about that, let me
20 ask you a separate question.

21 Between 1991 and 1996, were you familiar with
22 the term "EPO"?

23 A. Yes.

24 Q. And what was your understanding of the term
25 "EPO"?

1 A. That stands for European Patent Office, which
2 is the European -- various European countries do --
3 it's a centralized examination of patent applications.

4 Q. Let me ask you to take a look at page 19. I'd
5 like to ask if this refreshes your recollection that
6 Rambus had a patent application pending in Europe.

7 A. Yes, it does.

8 Q. And what is your recollection?

9 A. That it did.

10 Q. And again, the -- is it your recollection that
11 the application Rambus had pending in Europe between
12 1991 and 1996 was also based on the original
13 United States filing?

14 A. Yes.

15 Q. Is it also your recollection that between
16 1991 and 1996 Rambus had a pending patent application
17 in Japan?

18 A. I'd have to be refreshed. I don't remember.

19 Q. Okay. If you could turn to the next page of
20 the document, please, page 20.

21 A. Yes.

22 Q. Does that refresh your recollection as to
23 whether Rambus had a pending patent application in
24 Japan?

25 A. Yes. It did.

1 Q. And was that application also based on Rambus'
2 original filing in the United States?

3 A. Yes.

4 Q. Do you also have a recollection as to whether
5 Rambus had a pending patent application in Korea
6 between 1991 and 1996?

7 A. I don't remember.

8 Q. If I could ask you to turn to the next page,
9 please, page 21.

10 A. Yes.

11 Q. Does that refresh your recollection as to
12 whether Rambus had a pending patent application in
13 Korea between 1991 and 1996?

14 A. Yes, it does.

15 Q. And what is your recollection?

16 A. It did.

17 Q. Was that application also based on Rambus'
18 original filing in the United States?

19 A. Yes.

20 Q. Mr. Vincent, if I could ask you to take a look
21 at the next document in the left-hand pile in front of
22 you. It should have a Bates number CX-1937 in the
23 lower right-hand corner.

24 A. Yes.

25 Q. Now, CX-1937 is a collection of invoices that

1 your firm sent to Rambus for services rendered; is that
2 right?

3 A. Yes. Redacted.

4 Q. If I could ask you to turn, please, to page 28.

5 A. Yes.

6 Q. And I'd like to focus your attention on the
7 paragraph beginning "services rendered in connection
8 with preparation," and in particular I'd like to focus
9 on a couple of sentences within that paragraph.

10 A. Let me -- can I just read it for a second?

11 Q. Certainly.

12 (Pause in the proceedings.)

13 A. Yes.

14 Q. If we could look at the second sentence, it
15 reads, "Teleconference with Allen Roberts concerning
16 foreign filing of P001 case."

17 Do you see that?

18 A. Yes.

19 Q. Now, Allen Roberts was vice president of Rambus
20 at the time; right?

21 A. I don't remember what his position was. He
22 worked for Rambus. I knew that.

23 Q. Did you understand him to be the person at
24 Rambus responsible for intellectual property matters at
25 this time?

1 A. That was part of his -- that was part of his
2 responsibility, yes.

3 Q. Then with respect to your reference here to
4 P001 case, that referred to Rambus' original
5 application; is that right?

6 A. Yes.

7 Q. And then if I could direct your attention two
8 sentences further on, "Teleconference with Geoff Tate
9 concerning foreign filing of Rambus P001 PCT patent
10 application."

11 Do you see that?

12 A. Yes.

13 Q. And this then refers to the general foreign
14 application I think you referred to a couple moments
15 ago?

16 A. Yes. This concerns the PCT application.

17 By the way, when I said Allen Roberts before, I
18 mean, there were other people -- I mean, Rambus is a
19 small company so I would talk to various people about
20 various things, intellectual property.

21 Q. And if I could direct your attention to the
22 last sentence, "Prepare memorandum to Maureen Tieman
23 regarding filing EPO, Japan and South Korea patent
24 applications."

25 Do you see that?

1 A. Yes.

2 Q. Who is Maureen Tieman?

3 A. Maureen Tieman is the -- she's the head of our
4 foreign filing department in LA in this -- at our
5 Los Angeles office at this time. Back then, the
6 foreign department was only in LA. Now we also have
7 one in our Sunnyvale office.

8 Q. And if I could direct your attention to the
9 next sentence -- I'm sorry. Let me pause there for a
10 moment.

11 I assume from the structure of this invoice
12 that everything we've read so far reflects services
13 that you rendered on behalf of Rambus?

14 A. Yes.

15 Q. And then the following sentence reflects
16 services rendered by Maureen Tieman?

17 A. Yes.

18 Q. And the sentence there reads, "Services
19 rendered in connection with entering the national stage
20 in the EPO, Japan and Korea."

21 Do you see that?

22 A. Yes.

23 Q. Now, what did you mean when you wrote "entering
24 the national stage"?

25 A. Well, as I'd mentioned earlier, I think the PCT

1 is sort of a waiting period and so at the end of it you
2 then -- it's expensive to go into these various
3 countries, and so the PCT defers the costs of entering
4 them, and so at the end of the PCT period you have to
5 decide what to do because the PCT doesn't issue --
6 there's no PCT patent, it's just this waiting period,
7 so you have to decide which countries you're going to
8 enter, if any, and so it's -- it's actually national
9 phase or regional phase because the EPO is not actually
10 a country; right? It's a region.

11 So you then get the priority that goes all the
12 way back to your U.S. filing, so you sort of end the
13 PCT period. You then go into these various countries
14 or regional patent offices and continue the examination
15 phase of the patent application, it still hasn't
16 issued, and you get the priority date all the way back
17 to your original U.S. filing date.

18 For a country -- and only certain countries are
19 members of the PCT, so there's only certain countries
20 you can go into.

21 Q. In fact, one of the subjects that you were
22 discussing with Allen Roberts and Geoff Tate in these
23 teleconferences was trying to decide which countries to
24 enter; isn't that right?

25 A. I don't recall.

1 Q. I'd like to ask you to take a look at the next
2 document in the left-hand pile. It should have a
3 number in the lower right-hand corner CX-1948.

4 A. Yes.

5 Q. Actually, I'm sorry. Before we take a look at
6 CX-1948, could I ask you to take one more look back at
7 CX-1937 on page 28.

8 A. Yes.

9 Q. The services we were just discussing appear on
10 an invoice captioned towards the top Additional
11 Services Rendered Through October 1992; right?

12 A. Yes.

13 Q. Okay. If I could then ask you to take a look
14 at CX-1948.

15 Now, this is a letter from you to Geoff Tate of
16 Rambus from the previous month, September 4, 1992;
17 right?

18 A. Let me just take a look at it here.

19 Q. Sure.

20 (Pause in the proceedings.)

21 A. Yes. I'm sorry. I've read it now. What was
22 the question?

23 Q. This is a letter you sent to Mr. Tate from the
24 previous month, the month before the invoice we were
25 just looking at, in September 1992; right?

1 A. Yes.

2 Q. And one of the things that you told Geoff Tate
3 at this time is that prior to October 18, 1992, Rambus
4 must decide which countries or regions to enter?

5 A. That's not exactly what it says, but yeah,
6 that's the drift of what it's saying.

7 Q. Okay. And following discussions with you,
8 Rambus decided to enter, among other countries, the
9 United Kingdom, France, Italy and Germany; right?

10 A. I'm sorry. You're talking kind of fast. I
11 missed the first part of that one.

12 Q. Following discussions with you, Rambus decided
13 to enter, among other countries, United Kingdom,
14 France, Italy and Germany; right?

15 A. Yes. That's what it appears, yes.

16 Q. If I could ask you to take a look at the next
17 document on the left-hand side. This one should have a
18 number RX-335.

19 A. By the way, just to clarify, that last thing, I
20 mean, I think France -- you know, looking at the
21 billing records, we talked about the EPO. Well, I'm
22 not sure about, you know, France. I think you have to
23 come out of the EPO and then go into France, so at this
24 immediate time it's not going into France, it's going
25 into the EPO. It would have been a later time if

1 France was listed in what you were saying.

2 Q. Okay.

3 A. The same thing with Italy. You know, it's -- I
4 believe -- I'd have to look at the records, but see,
5 the EPO is kind of an examination period and at the end
6 of that you go into the various countries, so there's
7 another decision-making process there down the road for
8 those countries, so...

9 Q. But at some point in time, though, Rambus
10 then -- actually let me break it down into two
11 questions.

12 Initially then Rambus decided to go into the
13 EPO?

14 A. That's what it appears, yeah, from the
15 documents you've showed me, yes.

16 Q. And that would be the European Union as a
17 whole?

18 A. It's not exactly -- it's not exactly a
19 one-to-one correspondence between the EPO office and
20 the EU, especially now, the EU has changed, but some
21 countries are, you know, not in the one, and then the
22 other one -- and actually I believe -- you know,
23 testing my recollection here, but I believe that some
24 of them are not in EU or, you know, in the EPO, so --
25 and it changes, so I don't know what it was back then,

1 so...

2 Q. Would it be fair to say it's a collection of
3 European countries?

4 A. It's a collection of European countries, not
5 all of them, some of them.

6 Q. And it did include United Kingdom, France,
7 Germany and Italy at that time?

8 A. Yes.

9 Q. And then at some subsequent point in time
10 Rambus decided to enter United Kingdom, France, Germany
11 and Italy?

12 A. I believe that's right, yes.

13 Q. If I could ask you to look at RX-335, this is a
14 letter from you to Mr. -- is it "Wombwell"? Is that
15 how you pronounce that?

16 A. That's a good question. I don't really talk to
17 the guy. I think it's "Wombwell."

18 Q. "Wombwell"?

19 A. That's how I said it.

20 Q. Dated October 7, 1992. I'll give you a moment
21 to look at it.

22 A. Yeah, if you'll give me just a moment to take a
23 look at it.

24 (Pause in the proceedings.)

25 Yes. I've had a chance to look at it.

1 Q. Well, first of all, who is or who was at this
2 time Mr. Wombwell?

3 A. Mr. Wombwell was a U.K. attorney who was also
4 an EPO attorney, you know, able to practice before the
5 European Patent Office, and he was what we call one of
6 our foreign associates, one of the firms we use around
7 the world to file patent applications in other regions
8 or countries outside of the United States.

9 Q. And what was Potts Kerr and Company?

10 A. So it's a British law firm.

11 Q. That was his law firm or he was a member of
12 that law firm?

13 A. Yes.

14 Q. If I could direct your attention to the second
15 paragraph here on the first page, the paragraph begins,
16 "Our client now wishes to file a patent application in
17 the EPO designating the United Kingdom, France, Italy
18 and Germany."

19 Now, what did you mean by filing a patent
20 application in the EPO designating those four
21 countries?

22 A. Well, this is the patent -- you'd be filing the
23 patent application in the European Patent Office
24 because they now need to examine the patent
25 application.

1 Designating, you can -- well, basically how the
2 procedure works is you designate up front when you file
3 in the EPO which countries you want to have the
4 opportunity to file in at the end of the EPO.

5 So what I was saying about, you know, you then
6 later at the end of the EPO go into the countries.
7 What happens is you can designate a whole bunch of
8 countries up front and then at the end decide to only
9 go into some of those countries. It's very similar to
10 the way the PCT works also.

11 So -- now, I'm not sure if I was saying here
12 that those were the only ones to designate -- you
13 know, there's one procedure where you would actually
14 check off and just say we want to be able to go into
15 anywhere and then later decide to go into a few,
16 subset of countries, so I'm not sure I was saying just
17 designate these only or, you know, these down the road
18 we have an idea that we might decide to go into these
19 countries.

20 Q. But in any event, at least among the countries
21 to be designated were United Kingdom, France, Italy and
22 Germany?

23 A. That's correct.

24 Q. And looking at the remainder of that sentence,
25 "and claiming priority from the PCT application and the

1 U.S. case," what did you mean by that?

2 A. I meant that you would file it and you would --
3 you actually, you know, on the form when you file you
4 claim priority, which means you want to get the
5 original, the benefit of the original filing date.

6 You know, first you go back to the PCT -- it
7 kind of bootstraps. It goes back to the PCT and then
8 goes back all the way to the original filing date of
9 the U.S., so you're claiming the advantage of that
10 filing date.

11 Q. So does this claim the advantage of the filing
12 date of the Rambus original '898 application in the
13 United States?

14 A. I -- P1 is -- if you want to tell me that's
15 '898, yeah, the P1, because it says "re: P1" on the
16 letter.

17 Q. P1 being your internal designation?

18 A. Yes. That's our internal matter number
19 designation for the patent application.

20 Q. If I could ask you to turn to the second page,
21 please.

22 A. Yes.

23 Q. I'd like to direct your attention to the second
24 paragraph.

25 And --

1 A. Yes.

2 Q. That paragraph, the first sentence reads,
3 "After the EPO application is filed, we are planning to
4 then have a preliminary amendment filed that would
5 conform certain ones of the independent claims to the
6 amended claims currently being prosecuted in the U.S.
7 case."

8 Do you see that?

9 A. Yes.

10 Q. Now, essentially what you were telling
11 Mr. Wombwell there is that Rambus was planning to file
12 a preliminary amendment in the EPO; is that right?

13 A. Well, I was, you know, I was -- in the next
14 sentence I'm sort of asking -- I'm trying to get
15 information from him, but as part of the next coming --
16 the next question that's coming up I'm saying that
17 we're planning to file a preliminary amendment in the
18 EPO. But then I'm asking the question if it's a proper
19 procedure.

20 Q. But in any event, the purpose there was to try
21 to conform certain independent claims in the EPO
22 application to the amended claims being prosecuted in
23 the United States; is that right?

24 A. Yeah, that seems to be the proposal, yes.

25 Q. So then with that background, would it be fair

1 to say that one of the services that you were rendering
2 on behalf of Rambus between 1991 and 1996 was trying to
3 ensure that certain of Rambus' foreign patent
4 applications tracked Rambus' United States
5 applications? Is that right?

6 A. Well, I mean, I don't recall specifically. I
7 mean, I was writing here with a question about, you
8 know, about certain ones of the claims that would
9 conform to the U.S. case, so I don't -- you know, in
10 that sense for that particular narrow thing, you know,
11 I was -- that's what I was doing.

12 Q. In any event, that's what you were doing here
13 in this letter; is that right?

14 A. Well, I was asking a question. I don't recall
15 what I actually ended up doing.

16 MR. OLIVER: Your Honor, at this point I'd like
17 to pause for a moment and move to admit CX-1985 into
18 evidence.

19 JUDGE McGUIRE: Any objection?

20 MR. STONE: No objection.

21 JUDGE McGUIRE: Entered.

22 (CX Exhibit Number 1985 was admitted into
23 evidence.)

24 MR. OLIVER: And I'd like to move to admit
25 CX-1982.

1 MR. STONE: No objection.

2 JUDGE McGUIRE: Entered.

3 (CX Exhibit Number 1982 was admitted into
4 evidence.)

5 MR. OLIVER: And I'd like to move to admit
6 CX-1948.

7 MR. STONE: No objection.

8 JUDGE McGUIRE: Entered.

9 (CX Exhibit Number 1948 was admitted into
10 evidence.)

11 MR. OLIVER: And I'd like to move to admit
12 RX-335.

13 MR. STONE: No objection.

14 JUDGE McGUIRE: Entered.

15 (RX Exhibit Number 335 was admitted into
16 evidence.)

17 MR. OLIVER: Your Honor, we're going to move on
18 to a new topic now and we'll get some events between
19 December 1991 and June of 1996 and we've prepared a
20 demonstrative that we'd like to place up on the tripod
21 here.

22 JUDGE McGUIRE: All right. Go ahead.

23 If you want to just pull your chair up here,
24 Mr. Stone, that would be all right, too.

25 MR. STONE: Thank you.

1 BY MR. OLIVER:

2 Q. Mr. Vincent, if I could ask you to locate the
3 next document in the left-hand side on the table in
4 front of you. That should have an indication in the
5 lower right-hand corner CX-1941.

6 A. Yes.

7 Q. Now, these are your notes of a telephone call
8 with Rambus vice president Allen Roberts?

9 A. Let me take just a quick look at it.

10 Q. Certainly.

11 (Pause in the proceedings.)

12 A. Okay. I've had a chance to look at it.

13 Q. Are these your notes of a telephone call with
14 Rambus vice president Allen Roberts?

15 A. Yes.

16 Q. And that was March 25, 1992?

17 A. Yes. Assuming he was vice president then,
18 yes.

19 Q. Okay. And if you could look down to heading
20 Roman numeral II?

21 A. Yes.

22 Q. It reads, "Said need preplanning before accuse
23 others of infringement"; right?

24 A. Yes.

25 MR. STONE: Your Honor, I object. This line of

1 questioning was covered in the deposition testimony
2 that was already presented and in fact these very
3 questions about this document were covered.

4 MR. OLIVER: Your Honor, I'm simply trying to
5 lay a little bit of background so we can then go into
6 some other documents and proceed through this
7 demonstrative.

8 MR. STONE: My point is it's cumulative and the
9 background has already been laid through the deposition
10 testimony.

11 JUDGE MCGUIRE: If it's already been laid, you
12 can go ahead then and proceed with your upcoming
13 questions.

14 BY MR. OLIVER:

15 Q. If you could please take a look at the next
16 document in the left-hand pile in front of you. It has
17 the number CX-1942.

18 A. Yes.

19 Q. I'll give you a moment to take a look at that.

20 A. Thank you.

21 (Pause in the proceedings.)

22 Yes, I see it.

23 Q. Now, these are your notes of a meeting with
24 Richard Crisp and Allen Roberts on March 27, 1992?

25 A. Yes.

1 Q. Now, if I could direct your attention about
2 halfway down the page in this document.

3 A. Yes.

4 Q. And there's a statement that reads: I said
5 there could be equitable estoppel problem if Rambus
6 creates impression on JEDEC that it would not enforce
7 its patent or patent applications.

8 Did I read that correctly?

9 A. Well, it says "its patent or patent
10 application."

11 Q. Okay. With that correction, did I read that
12 correctly?

13 A. Yes.

14 JUDGE MCGUIRE: Mr. Stone?

15 MR. STONE: Your Honor, again, this document
16 was covered in the deposition testimony that was read.
17 These questions were asked about is this a document
18 that reflects a conference on March 27, are these the
19 words, they went into who said what at the meeting.
20 It's all been covered in the testimony that's been
21 presented. I think it's cumulative.

22 JUDGE MCGUIRE: Mr. Oliver, I mean, if that's
23 the case, then what is the point of your inquiry again
24 on this?

25 MR. OLIVER: Your Honor, I'm in a rather

1 difficult position here. As you know, this is not the
2 way that we wanted to conduct this examination. It was
3 actually at Mr. Stone's suggestion that we do the
4 deposition readings earlier. I am doing my best not to
5 cover old ground unnecessarily, but I am trying to lay
6 some foundation so we can then explore what exactly was
7 discussed and what information Mr. Vincent had at the
8 time of this meeting.

9 MR. STONE: Your Honor --

10 JUDGE McGUIRE: I'll give you some leeway in
11 that regard, but don't go any further than you
12 absolutely have to if it is cumulative, so I'm going to
13 give you some flexibility in that regard.

14 MR. OLIVER: Thank you, Your Honor.

15 BY MR. OLIVER:

16 Q. And then if I could direct your attention
17 towards the bottom of the page, about four lines up
18 there's a line that reads: But can't mislead JEDEC
19 into thinking that Rambus will not enforce its
20 patents.

21 Did I read that correctly?

22 A. It says "patent" singular, but other than that,
23 yes, you did.

24 Q. And I think that you have said that at the time
25 of this meeting you were concerned about the upside

1 potential for downside risk; is that right?

2 A. I don't recall.

3 Q. Okay. In any event, I believe you said that at
4 the time you did not think it was a very good idea for
5 Rambus to participate in JEDEC; is that right?

6 A. I don't remember.

7 Q. At this point I'd like to see whether you saw
8 certain other documents related to this topic either at
9 the time of this meeting or subsequently. If I could
10 start with CX-204, EIA Legal Guides, which I think is
11 the next document in the left-hand pile.

12 A. Okay. I've taken a brief look at this.

13 Q. Do you recall whether Mr. Crisp or Mr. Allen --
14 Mr. Allen Roberts -- excuse me -- showed you this
15 document at the March 1992 meeting?

16 A. I don't believe I was shown any documents at
17 that March teleconference -- I mean at that March
18 conference you were just showing me.

19 Q. Do you recall having seen this document at any
20 time before the end of June 1996?

21 A. I don't remember.

22 Q. You don't remember having seen this document?

23 A. That's correct.

24 MR. OLIVER: Your Honor, what I'd like to do
25 is, as we proceed through certain events with certain

1 documents, I'd like to color them in in terms of
2 whether there's evidence that Mr. Vincent did see
3 documents or was aware of events or as to whether he
4 was not aware or can't recall.

5 JUDGE McGUIRE: All right. Proceed.

6 MR. OLIVER: And with your permission, I'd just
7 like to ask Ms. Pitlick to actually stand there and
8 color as we proceed?

9 JUDGE McGUIRE: Go ahead.

10 BY MR. OLIVER:

11 Q. And I believe we've discussed first -- I'm
12 sorry. Could you stand -- thank you -- the Roberts
13 conference towards the bottom there, if you -- yes.

14 JUDGE McGUIRE: All right. Let's have some
15 sort of a code here.

16 MR. OLIVER: Actually, I'm sorry. I've
17 indicated the wrong box. If you could -- the
18 Roberts/Crisp conference above that, and she's
19 coloring yellow, so I think that yellow then will
20 indicate that these are either events that Mr. Vincent
21 was involved in or documents that he saw based on
22 evidence such as handwritten notes, billing records or
23 other evidence.

24 BY MR. OLIVER:

25 Q. Then we discussed the EIA Legal Guides, which

1 appear up towards the top, and before you proceed, I'll
2 just indicate that blue indicates documents that either
3 there's no written evidence that you have seen or you
4 don't recall having seen. Is that fair?

5 A. You're asking me?

6 Q. Is it fair to indicate --

7 MR. STONE: If you want red, we can probably
8 move to red.

9 JUDGE McGUIRE: I think he prefers green.

10 BY MR. OLIVER:

11 Q. I just want to be fair that this is a document
12 you don't recall having seen as you sit here today.

13 A. That's correct, yes.

14 Q. In that case we'll color that one blue.

15 Mr. Vincent, if I could ask you to look at the
16 first document in the right-hand pile in front of you.

17 A. Okay.

18 Q. This is a document that consists of minutes of
19 the JC-42.3 subcommittee of JEDEC, a meeting in
20 February 1992, and I'm going to ask you just about a
21 specific piece of this document. Feel free to look at
22 the entire document if you wish to do so, but my
23 question will be based on a specific piece.

24 I'd like you to turn if you could, please, to
25 page 5. And under the caption Patent Presentation, if

1 you could -- well, first, let me indicate that it
2 begins, "EIA patent policies were shown by
3 Mr. Townsend." If you could read that paragraph to
4 yourself. I recognize the typing is rather small.
5 We've blown it up on the computer screen if that's
6 easier for you.

7 (Pause in the proceedings.)

8 Mr. Vincent --

9 A. Okay. I've read that -- I've read that
10 paragraph.

11 Q. My question is: Focusing on the meeting with
12 Mr. Roberts and Mr. Crisp in March of 1992, did either
13 Mr. Roberts or Mr. Crisp describe for you any
14 presentations of this sort made by Mr. Townsend at
15 JEDEC meetings?

16 A. I don't believe so.

17 Q. Do you recall at any time before June of 1996
18 anybody describing for you presentations made by
19 Mr. Townsend at JEDEC meetings?

20 A. I don't recall.

21 MR. OLIVER: We can now color the next book,
22 Your Honor.

23 BY MR. OLIVER:

24 Q. Mr. Vincent, if I could ask you to turn,
25 please, to page 29 in this same document.

1 MR. STONE: Your Honor, I do object to the use
2 of a document in this fashion. There's been no
3 foundation the witness has seen the document before.
4 He hasn't been asked that. But there's no foundation
5 he's ever seen the document before, and I know it's
6 been the position of complaint counsel that I could not
7 show a witness a document or have it on the screen
8 unless I could lay a foundation that the witness had
9 seen the document before.

10 JUDGE MCGUIRE: Mr. Oliver?

11 MR. OLIVER: I will ask that question if the
12 witness --

13 JUDGE MCGUIRE: I would ask you to ask that
14 question of any such document so we can save some
15 time.

16 MR. OLIVER: Okay. Thank you, Your Honor.

17 BY MR. OLIVER:

18 Q. Mr. Vincent, page 29 is a page with the
19 handwritten note at the top right-hand corner
20 "Attachment D" and bears the caption Patent Issues to
21 Track. And then under that there are a number of
22 columns: patent number, holder, subject, source,
23 status.

24 A. Wait. I'm sorry. On page 29?

25 Q. Yes.

1 A. Attachment D? Is that the one (indicating)?

2 MR. OLIVER: May I approach, Your Honor?

3 JUDGE McGUIRE: Yes.

4 BY MR. OLIVER:

5 Q. So on that page do you see in the upper
6 right-hand corner a handwritten note "Attachment D"?

7 A. Yes.

8 Q. And then in the center of the page under that,
9 Patent Issues to Track?

10 A. Yes. I see that.

11 Q. And then do you see under that a number of
12 columns?

13 A. Yes.

14 Q. And the column headings reading from left to
15 right are patent number, holder, subject --

16 JUDGE McGUIRE: All right. Mr. Oliver, you can
17 ask him at this point has he ever seen the document
18 before we go into the kind of detail that you're going
19 into. It's a very easy process. Just up front ask him
20 if he's seen this document.

21 BY MR. OLIVER:

22 Q. Mr. Vincent, at any time between December 1991
23 and June 1996 did you see this document?

24 A. No.

25 Q. Did you see any similar document?

1 A. Not that I recall.

2 MR. OLIVER: Your Honor, if we can color in the
3 next box, please.

4 JUDGE McGUIRE: Go ahead.

5 BY MR. OLIVER:

6 Q. If I could ask you to look at the next
7 document in the right-hand pile. It has a number in
8 the lower right-hand corner CX-37A. This is a set of
9 minutes from the JEDEC JC-42.3 subcommittee from
10 July of 1992.

11 A. Hold on a second.

12 Q. And again, feel free to look through the entire
13 document. My question will relate to a single page,
14 and that will be page 7 of this document, that is,
15 looking at CX-0037a-007.

16 (Pause in the proceedings.)

17 And page 7 of the exhibit actually contains two
18 pages in the original document, and I would just like
19 to identify this page for the record is a page with a
20 handwritten note in the upper right-hand corner
21 "Attachment A" with a caption in the middle of the page
22 Fax Patents. There's a list of recipients, a list of
23 cc's to, from Toshiba J. Townsend. The date appears to
24 be May 26, 1992.

25 A. Okay. I've had a brief chance to look through

1 this.

2 Q. Have you seen the page I've identified, page 7?

3 A. Yes. With "Attachment A" in the right-hand
4 corner.

5 Q. Yes.

6 A. I see that.

7 Q. Do you recall having seen this document at any
8 time between December 1991 and June of 1996?

9 A. No, I don't recall having seen it.

10 Q. Do you recall having seen any similar document
11 from Mr. Townsend to a list of recipients of this
12 sort?

13 A. No, I don't recall seeing any similar
14 document.

15 MR. OLIVER: If we can color in the next box,
16 please, Your Honor.

17 JUDGE MCGUIRE: Yes.

18 BY MR. OLIVER:

19 Q. If I could ask you to look at the next document
20 in the left-hand stack of documents. It has a CX
21 number in the lower right-hand corner CX-672.

22 A. Yes.

23 Q. For the record, this is a document that bears
24 the caption Subject: JEDEC Meeting Notes 2/27-2/28, to
25 staff, to Garrett, the last line Billy. It appears to

1 indicate that it was from Billy Garrett.

2 (Pause in the proceedings.)

3 A. Okay. I've had a chance to quickly look
4 through it.

5 Q. Mr. Vincent, do you recall having seen CX-672
6 at any time between February of 1992 and June of 1996?

7 A. I don't recall having seen it.

8 Q. If you could set that document aside then,
9 please.

10 Do you recall, again between February of 1992
11 and June of 1996, any Rambus representative -- actually
12 let me withdraw that question and break it in two
13 parts.

14 Focusing first on the meeting that you had with
15 Mr. Roberts and Mr. Crisp in late March of 1992, do you
16 recall either Mr. Roberts or Mr. Crisp informing you
17 that Fujitsu had indicated at a JEDEC meeting that it
18 had patents applied for but would comply with JEDEC
19 requirements to make it a standard?

20 A. I don't recall that.

21 Q. Do you recall at any time before June of 1996
22 anybody at Rambus telling you that Fujitsu had
23 indicated at a JEDEC meeting that they had patents
24 applied for but would comply with JEDEC requirements to
25 make it a standard?

1 A. I don't recall.

2 Q. If I could ask you to look at the next
3 document from the left-hand stack of documents,
4 please --

5 JUDGE McGUIRE: Before we do that, Mr. Oliver,
6 aren't you going to mark this last one?

7 MR. OLIVER: Actually, this too will be
8 related, Your Honor. But thank you, Your Honor.

9 JUDGE McGUIRE: Okay. I'm trying to keep you
10 on your toes.

11 MR. OLIVER: Thank you, Your Honor.

12 BY MR. OLIVER:

13 Q. If you could look at the next document in the
14 left-hand pile, which is CX-685.

15 For the record, this is an e-mail from
16 David Mooring subject to -- excuse me -- subject:
17 JEDEC notes, to a number of individuals at Rambus, date
18 December 11, 1992.

19 A. Okay. I've had a brief chance to look at it.

20 Q. Do you recall seeing this document at any time
21 before the end of June 1996?

22 A. No.

23 Q. If you could set that document aside then.

24 At any point before the end of June 1996 do you
25 recall anybody at Rambus telling you that IBM had

1 stated at a JEDEC meeting that there were some voting
2 JEDEC attendees with patents pending on SDRAMs that
3 they had not made the committee aware of and that IBM
4 would come to the next meeting with a list of
5 offenders?

6 A. I don't recall that.

7 MR. OLIVER: Your Honor, at this point I'd like
8 to color in the next box, please.

9 JUDGE MCGUIRE: All right.

10 MR. OLIVER: Thank you.

11 BY MR. OLIVER:

12 Q. Mr. Vincent, if you could take a look at the
13 next document in the left-hand pile, CX-208. It bears
14 the caption JEDEC Publication, JEDEC Manual of
15 Organization and Procedure, JEP 21-I, with the date
16 October 1993.

17 (Pause in the proceedings.)

18 A. Okay. I've had a chance to briefly look
19 through it.

20 Q. Mr. Vincent, at any time between October 1993
21 and the end of June 1996 do you recall having seen
22 CX-208?

23 A. I don't remember.

24 Q. If we could color in the next box.

25 Mr. Vincent, if I could ask you to take a look

1 at the next document in the left-hand stack of
2 documents.

3 JUDGE McGUIRE: Okay. Now, I'm still looking
4 at this other box. It's only been about halfway
5 circled. Was that an error at the time?

6 MR. OLIVER: It was an error at the time,
7 Your Honor. We'll be coming back to that one in a
8 couple minutes.

9 JUDGE McGUIRE: Very good.

10 MR. OLIVER: We can't pull anything past you.

11 JUDGE McGUIRE: I know it's tough up here.
12 There's a lot of pressure on you.

13 MR. OLIVER: We can't sneak anything past you,
14 Your Honor.

15 JUDGE McGUIRE: Right.

16 BY MR. OLIVER:

17 Q. Mr. Vincent, I've asked you to take a look at
18 CX-306. It's a document, a two-page document. The
19 front page has a number of seals across the top.
20 Underneath that it reads "Meeting Attendance Roster."

21 A. Okay. I've had a chance to look at it.

22 Q. Mr. Vincent, do you recall at any time before
23 the end of June 1996 having seen a copy of CX-306?

24 A. I don't recall ever seeing this.

25 MR. OLIVER: If we could fill in the next box,

1 please, Your Honor.

2 JUDGE McGUIRE: Go ahead.

3 BY MR. OLIVER:

4 Q. If I could ask you to take a look at the next
5 document in the left-hand stack of documents. It has a
6 number in the lower right-hand corner CX-1967.

7 (Pause in the proceedings.)

8 A. Yes, I've had a chance to look through this
9 document.

10 Q. Now, this is a set of your own handwritten
11 notes; is that right?

12 A. Yes.

13 Q. It reflects a teleconference with Richard Crisp
14 on I believe it's October 29, 1993; is that right?

15 A. Yes.

16 Q. And he has asked you to get copies of a number
17 of Texas Instruments patents?

18 A. I don't recall.

19 Q. He has asked you to get copies of complaints
20 and docket sheets in Micron suing Texas Instruments in
21 Boise, Idaho and Texas Instruments suing Micron in
22 Texas?

23 A. Yes.

24 Q. Now, at the time of this teleconference, do you
25 recall Mr. Crisp telling you that this issue had arisen

1 at a JEDEC meeting?

2 A. I don't remember.

3 Q. With respect to this teleconference, do you
4 recall Mr. Crisp saying anything at the time with
5 respect to a so-called quad CAS dispute within JEDEC?

6 A. I'm sorry. What was that?

7 Q. My question is whether at the time of this
8 teleconference Mr. Crisp said anything to you about a
9 so-called quad CAS dispute within JEDEC.

10 A. Quad CAS -- is that C-A -- quad CAS.

11 Q. Quad CAS, Q-U-A-D-C-A-S.

12 A. I don't remember.

13 Q. If I could ask you to set that document aside
14 and take a look at the next document in the left-hand
15 pile in front of you.

16 And Mr. Crisp, this document requires a bit of
17 explanation. Let me represent to you that this
18 document, CX-711, consists of a compilation of various
19 e-mails that were sent by or to Mr. Richard Crisp, and
20 we will be referring to this from time to time during
21 the course of the day and each time we will have to
22 refer to each separate e-mail since at the time, as
23 best we can tell, they were sent and received at
24 different times.

25 I'd like to ask you to look if you could,

1 please, at the bottom of page 15.

2 A. So it's page 15 of 199?

3 Q. Yes. That's right.

4 And if you look at the bottom of page 15, it
5 appears to be the beginning of an e-mail dated
6 Wednesday, March 9, 1994, a few lines down, to
7 marketing, G. Tate, Kamo, K-A-M-O, from crisp@jupiter
8 (Richard Crisp), subject: JEDEC day two.

9 And I'd like to ask you, please, to read the
10 following page, page 16, focusing in particular
11 starting the fifth line, "The meeting opened with a
12 lot of controversy regarding patents," and reading the
13 rest of page 16 and onto the first two lines of
14 page 17.

15 A. So -- wait. I'm starting at line 5 and what
16 was the ending point?

17 Q. The top -- well, actually let me revise that.

18 If you read from the fifth line, "The meeting
19 opened with a lot of controversy regarding patents,"
20 and then read down about three-quarters of the way down
21 the page to the heading that begins Other Patent News,
22 I think you can stop reading at that point.

23 A. Okay.

24 (Pause in the proceedings.)

25 Okay. I've had a chance to read it.

1 Q. Do you recall having seen that e-mail at any
2 time before the end of June 1996?

3 A. No.

4 Q. If I could ask you to locate the next document
5 in the pile to your left. It should have a number
6 CX-355.

7 Now, for the record, CX-355 is a document with
8 the caption JEDEC Solid State Products Engineering
9 Council, underneath that a memo to JC-42 committee
10 members from Ken McGhee, date May 12, 1994, subject:
11 EIA legal response to TI letter dated March 9, 1994.
12 It attaches a memorandum from John Kelly dated
13 March 29, 1994 and a document with the title
14 Guidelines for Implementation of the ANSI Patent
15 Policy.

16 A. Okay. I've had a chance to look through the
17 document briefly.

18 Q. Do you recall having seen CX-355 at any time
19 before the end of June 1996?

20 A. No.

21 MR. OLIVER: Your Honor, at this time I'd like
22 to finish filling in the quad CAS box, please.

23 JUDGE McGUIRE: Go ahead.

24 BY MR. OLIVER:

25 Q. If I could ask you to take a look at the next

1 document in the left-hand pile in front of you,
2 please. It has a number in the lower right-hand
3 corner CX-673.

4 For the record, it has a caption at the top,
5 first reads "SDRAM" and then "Subject: No subject
6 (file transmission)," to G. Tate, Mooring, Roberts,
7 quick news flash from JEDEC 5-6-92, and at the very end
8 has the initials RDC.

9 (Pause in the proceedings.)

10 A. Okay. I've had a chance to briefly look
11 through it.

12 Q. Do you recall having seen CX-673 at any time
13 before the end of June 1996?

14 A. No.

15 Q. Okay. Would you please set that document
16 aside.

17 Do you recall Mr. Richard Crisp telling you at
18 any point before the end of June 1996 that
19 Mr. Gordon Kelley of IBM had asked him about Rambus
20 patents at a JEDEC meeting and that he had declined to
21 comment?

22 A. I don't recall.

23 Q. Mr. Vincent, if I could ask you to locate
24 CX-711, the document we just looked at a moment ago.
25 It's on the bench up there. It's the thick, 200-page

1 compilation of e-mails.

2 A. CX-711? Yes, I have that in front of me.

3 Q. I'd like to ask you to turn, please, to
4 page 68. And you see at the bottom of page 68 is an
5 e-mail with the date May 24, 1995, and if you look over
6 to the top of page 69, to E-N-G-M-G-R-S-E-X-E-C-B-D
7 market from crisp@jupiter (Richard Crisp), subject:
8 JEDEC JC-42 meeting notes.

9 And I'd like to ask you to look quickly if you
10 could from page 69 through page 75.

11 The text I'm most interested in appears about
12 two-thirds of the way down page 72 and continuing to
13 the bottom of page 73.

14 (Pause in the proceedings.)

15 Mr. Vincent, I don't mean to rush you. Take
16 more time if you need it. My question is going to be:
17 Do you recall having seen this e-mail at any time
18 before the end of June 1996?

19 A. I haven't gotten through it all, but no, I
20 don't recall having seen it.

21 Q. If you could set that document aside then.

22 Mr. Vincent, do you recall at any time before
23 the end of June 1996 Mr. Crisp ever telling you that
24 Mr. Gordon Kelley had asked him at a JEDEC meeting to
25 have Rambus state whether it knew of any patents that

1 might read on SyncLink?

2 A. I don't recall.

3 Q. If I could ask you to take a look at the next
4 document in the right-hand stack in front of you,
5 please. It should have a Bates number in the lower
6 right-hand corner JX-27.

7 A. Yes.

8 Q. And again, please feel free to look through the
9 entire document if you wish to do so. My question is
10 focused on one particular page, page 26, of JX-27.

11 For the record, this is a page with handwriting
12 in the upper right-hand corner "Attachment C,"
13 facsimile sheet, in the upper left-hand corner bears
14 the Rambus logo, and date September 11, 1995.

15 (Pause in the proceedings.)

16 A. Okay. I've had a chance to briefly look
17 through the document and I'm on page 26 also.

18 Q. And my question is: Do you recall seeing the
19 document on page 26 at any time before the end of
20 June 1996?

21 A. No.

22 MR. OLIVER: Your Honor, we'd like to fill in
23 the next box, specific requests, if we could.

24 JUDGE McGUIRE: Go ahead.

25 MR. OLIVER: Your Honor, actually this would be

1 probably a convenient place for a midmorning break if
2 that's okay with you.

3 JUDGE McGUIRE: All right. Very good. Let's
4 take a ten-minute break or recess.

5 (Recess)

6 BY MR. OLIVER:

7 Q. Mr. Vincent, if you could next locate the
8 document CX-1946. It should be in the top of the
9 left-hand pile in front of you.

10 Now, Mr. Vincent, CX-1946 is a set of your
11 handwritten notes from the meeting with
12 Mr. Allen Roberts of Rambus on May 2 or May 12, 1992;
13 is that right?

14 A. Yes.

15 Q. And if I could direct your attention to the
16 beginning of the notes, it reads: Richard Crisp wants
17 to add claims to original application, arrow, add
18 claims to mode register to control latency output
19 timing.

20 Did I read that right?

21 A. Yes.

22 Q. And then a couple lines below that it reads,
23 "Check whether original application has blocks"?

24 A. Yes --

25 MR. STONE: Your Honor, actually these are

1 questions that were already read in through the
2 deposition testimony almost word for word the way
3 Mr. Oliver is reading them now. They're in the record
4 and it's cumulative.

5 MR. OLIVER: Your Honor, that's the last of my
6 foundation questions and I can then move on.

7 JUDGE MCGUIRE: Okay. We'll let it in.

8 THE WITNESS: I think I said yes, but there's a
9 question mark in parentheses after that.

10 BY MR. OLIVER:

11 Q. Okay. Thank you.

12 Since you clearly were at that meeting, we
13 would like to color that box in yellow, if we could
14 then, Your Honor.

15 JUDGE MCGUIRE: Go ahead.

16 BY MR. OLIVER:

17 Q. Mr. Vincent, if you could locate the next
18 document in the right-hand stack of documents. It
19 should be JX-10.

20 MR. STONE: Your Honor, I do think if all we're
21 doing with documents like the one we just did is
22 repeating questions that have been asked at the
23 deposition in order to color the boxes, we probably
24 already have in the record whatever to color in the
25 boxes now.

1 JUDGE McGUIRE: Mr. Oliver, is that --

2 MR. OLIVER: Your Honor, what I'm trying to do
3 is lay a foundation, nothing but foundation, about the
4 fact that this meeting occurred, who was there, what
5 they discussed, so I can then ask some follow-up
6 questions in terms of what else may or may not have
7 been discussed at that meeting.

8 JUDGE McGUIRE: But if I understand their side,
9 they're saying that's already been done in this record,
10 has it not, or at least you've asked some questions
11 pertaining to these documents as to whether he's
12 already seen these or not?

13 MR. OLIVER: Well, Your Honor --

14 JUDGE McGUIRE: I mean, I want to give you the
15 opportunity, but if there's some approach where we can
16 save some time in here, I think we ought to take
17 advantage of it.

18 MR. OLIVER: Well, Your Honor, what I wish to
19 do is ask whether Mr. Roberts showed Mr. Vincent
20 certain documents or discussed certain events with him
21 at that meeting, and I think in fairness to
22 Mr. Vincent, I think I need to give him at least some
23 foundation as to what the meeting was about.

24 JUDGE McGUIRE: Go ahead. I'm just trying to
25 see if we can find a way to expedite this.

1 MR. OLIVER: Thank you, Your Honor.

2 BY MR. OLIVER:

3 Q. Mr. Vincent, I've handed you a document marked
4 JX-10. This consists of meeting minutes of the JC-42.3
5 subcommittee meeting in December 1991. Again, feel
6 free to flip through the entire document if you wish to
7 do so, but I do intend to ask you only about certain
8 pages. I would like you to focus if you could, please,
9 on pages 49 to 55, and I'd like to focus in particular
10 on page 53.

11 (Pause in the proceedings.)

12 And my question, Mr. Vincent, is whether
13 Mr. Roberts showed this document to you at the May 1992
14 meeting.

15 A. I don't recall that happening.

16 Q. Do you recall ever having seen this document
17 before June of 1996?

18 A. No.

19 Q. If I could then ask you to turn, please, to
20 pages 56 through 65 of the same document. And I'd
21 like to focus in particular on the first page,
22 page 56.

23 A. Okay. I've had a chance to quickly look at
24 it.

25 Q. Again, did Mr. Roberts show you this document

1 at the May 1992 meeting?

2 A. Not that I recall.

3 Q. Do you recall seeing this document at any time
4 before the end of June 1996?

5 A. No.

6 MR. OLIVER: Your Honor, if we could color in
7 the next box.

8 BY MR. OLIVER:

9 Q. Mr. Vincent, I'd like to ask you to look at the
10 next document at the top of the left-hand pile. This
11 should be CX-670.

12 For the record, this is an e-mail, top line
13 reads: Subject: Forwarded e-mail to everyone, trip
14 information, JEDEC meeting December 4-7, 1991, at the
15 end of the second page Billy, apparently from
16 Billy Garrett.

17 A. Okay. I've had the chance to quickly skim
18 through it.

19 Q. Mr. Vincent, do you recall having seen CX-670
20 at any time before the end of June 1996?

21 A. No.

22 Q. If you could set that document aside then,
23 please.

24 Do you recall Mr. Roberts telling you at the
25 May 1992 meeting that you had with him that NEC had

1 proposed at the JEDEC meeting in December 1991 that
2 latency should be programmable and burst sequence and
3 wrap length should be programmable?

4 A. I don't recall.

5 MR. OLIVER: Your Honor, if we could color in
6 the next box, please.

7 JUDGE McGUIRE: Go ahead.

8 BY MR. OLIVER:

9 Q. Mr. Vincent, if I could ask you to locate
10 JX-12. It's the set of JEDEC minutes that we looked at
11 already this morning. It should be in the pile on the
12 bench.

13 A. Give me a hint. Is it near the bottom?

14 Q. Excuse me?

15 A. Is it near the bottom?

16 Q. I think it is near the bottom. It's a thick
17 document.

18 I don't think it's quite that far down.

19 Your Honor, may I approach?

20 JUDGE McGUIRE: Go ahead.

21 THE WITNESS: Oh, there it is. I found it.

22 BY MR. OLIVER:

23 Q. JX-12 is a set of meeting minutes from the
24 February 1992 meeting of the JC-42.3 subcommittee, and
25 again, Mr. Vincent, feel free to flip through this

1 entire document if you want to do so, but my question
2 will be directed specifically at pages 39 through 54
3 with particular reference to page 42.

4 (Pause in the proceedings.)

5 Now, Mr. Vincent, my question is whether you
6 recall either Mr. Roberts or Mr. Crisp showing you
7 this presentation at any time before the end of
8 June 1996.

9 A. No.

10 Q. Do you recall having seen this presentation at
11 all at any time before the end of June 1996?

12 A. No.

13 MR. OLIVER: If we could fill in the next box,
14 please, Your Honor.

15 JUDGE McGUIRE: All right.

16 BY MR. OLIVER:

17 Q. If I could ask you to take a look at the next
18 document in the right-hand side pile. It has a number
19 CX-34.

20 A. Your Honor, do you mind if I stand up? I have
21 a cramp in my foot.

22 JUDGE McGUIRE: No. By all means.

23 THE WITNESS: Sorry. I get them sometimes.

24 JUDGE McGUIRE: Yeah, I've got a cramp too,
25 just not in my legs.

1 (Pause in the proceedings.)

2 THE WITNESS: Okay.

3 Okay. CX-34?

4 BY MR. OLIVER:

5 Q. CX-34. And again, please feel free to flip
6 through the entire document if you want to do so, but
7 my question is going to be specific to pages 30 through
8 34.

9 (Pause in the proceedings.)

10 And again, Mr. Vincent, my question is simply
11 whether you recall having seen the document at pages 30
12 through 34 of CX-34 at any time before the end of
13 June 1996.

14 A. No.

15 Q. You can set that document aside, but we will be
16 coming back to that in just a moment.

17 At the May 1992 meeting that you had with
18 Mr. Roberts, do you recall Mr. Roberts saying anything
19 at all with respect to any presentations made at the
20 JEDEC meeting in April of 1992 in Dallas, Texas?

21 A. No, I don't recall.

22 MR. OLIVER: Your Honor, if we could fill in
23 the next box, please.

24 BY MR. OLIVER:

25 Q. Mr. Vincent, if you could take a look at the

1 next document in the left-hand pile.

2 This document is CX-1947. And this is a page
3 of your handwritten notes from a teleconference with
4 Richard Crisp on May 29, 1992; right?

5 A. Yes.

6 Q. And if I could direct your attention to the
7 last bullet point, it reads, "Richard has claims for
8 cases we have filed plus claims for divisionals"; is
9 that right?

10 A. Yes.

11 MR. OLIVER: If we could now fill in the next
12 box, which will be yellow.

13 MR. STONE: Which box is that? This will be
14 "Crisp conf" below the line? I don't understand what
15 we're filling it in on the basis of, but I probably
16 haven't understood that with a bunch of these.

17 MR. OLIVER: Your Honor, this is being colored
18 yellow simply to represent that Mr. Vincent
19 participated in this conference and therefore had an
20 understanding of this event at the time.

21 MR. STONE: Well, Your Honor, I -- the very two
22 questions that Mr. Oliver asked about this document, if
23 that's all we're going to do with these notes, the very
24 two questions he asked he read in through deposition
25 testimony, the very same questions.

1 MR. OLIVER: Your Honor, my next question is
2 going to be with reference to another document and I
3 want to ask whether Mr. Crisp said anything else during
4 this meeting, and again, in fairness to Mr. Vincent, I
5 think I want to give him enough context in order to
6 understand --

7 JUDGE MCGUIRE: Well, you know, again, is there
8 any way that this can be expedited, Mr. Oliver? And I
9 appreciate what you're trying to do for him, but I'm
10 almost thinking maybe we should just take a break and
11 let him go through all of these and maybe you can come
12 back and just go into it on the record at that time. I
13 don't know. I'm just -- and I don't want to interfere
14 with how you want to proceed, but this is taking a long
15 time, and I assume that you're going to go through all
16 these documents; right?

17 MR. OLIVER: Yes, Your Honor. I would be
18 willing to take a break and see if we can go through
19 the document with Mr. Vincent during a break and then
20 do it more quickly if --

21 JUDGE MCGUIRE: I think that might be helpful.
22 I don't know.

23 Do you have any comment on this, Mr. Stone?
24 Because you obviously have some concerns about how
25 we're proceeding.

1 MR. STONE: I just wonder as to minutes from
2 JEDEC meetings, I think a general question to
3 Mr. Vincent does he recall having seen any minutes from
4 JEDEC meetings might simplify the presentation of the
5 JEDEC minutes, for example. I think --

6 JUDGE MCGUIRE: You know, it's up to you,
7 Mr. Oliver. I'm not and I'm sure opposing counsel is
8 not trying to tell you how to conduct your inquiry, but
9 I'm just trying to contemplate some way we can go
10 through this in a little better fashion, and I just
11 said we can take a break, but that may not be helpful.
12 I don't know.

13 MR. OLIVER: Your Honor, with respect to the
14 minutes, I do want to refer him to specific
15 presentations because it's possible he saw a
16 presentation in isolation, but again, I'm certainly
17 willing, if Mr. Stone would agree, to take a break,
18 see if we could go through those with Mr. Vincent
19 during a break and see if that expedites the
20 procedure.

21 JUDGE MCGUIRE: How much time do you think you
22 want to do? Maybe we should break for lunch at this
23 time. I don't know.

24 MR. STONE: I think that would not speed it
25 up. If he's going to go through every presentation

1 off the record and then come back on the record to
2 make a record of his answer of each presentation, we
3 might as well do it now and only look at them once.

4 JUDGE McGUIRE: Okay. It was just an idea.
5 But anything else -- but try to keep in mind what he's
6 opposing in your area of inquiry. If it's already been
7 read in through the deposition, then just go on perhaps
8 to your next question, and that might help speed this
9 up.

10 MR. OLIVER: Yes, Your Honor.

11 BY MR. OLIVER:

12 Q. Mr. Vincent, if I could ask you to turn back,
13 please, to CX-34, the set of JEDEC minutes that we
14 looked at just a moment ago.

15 A. Yes.

16 Q. And I'd like to ask you to turn, please, to
17 pages 38 through 53 and I'd like you to focus in
18 particular on page 44.

19 And again my question is, first, do you recall
20 having seen this presentation at any time before the
21 end of June 1996?

22 A. Well, let me just get -- the pages are what?
23 38 to what?

24 Q. 38 through 53, with particular reference to
25 page 44.

1 A. Okay. And the question is?

2 Q. The question is whether you recall having seen
3 this presentation at any time before the end of
4 June 1996.

5 A. No.

6 Q. If I could also ask you to turn, please, to
7 pages 58 through 81, with particular reference to
8 page 63.

9 A. Okay. I've found that page and I've skimmed
10 through the pages you referred to.

11 Q. And again my question is: Do you recall having
12 seen this presentation at any time before the end of
13 June 1996?

14 A. No.

15 Q. Okay. If you could set that document aside
16 then, please.

17 Now, with reference to your May 29, 1992
18 telephone conversation with Mr. Crisp, during that
19 conversation, do you recall him saying anything in
20 substance or effect with respect to whether there had
21 been any presentations at JEDEC relating to use of
22 programmable CAS latency?

23 A. I don't recall that.

24 Q. Do you recall whether Mr. Crisp said anything
25 during that telephone conversation with respect to any

1 presentations at JEDEC relating to programmable access
2 time?

3 A. I don't recall.

4 Q. Do you recall Mr. Crisp saying anything during
5 that telephone conversation with respect to any
6 presentations at JEDEC relating to programmable burst
7 length, programmable wrap length or block size?

8 A. I don't recall.

9 Q. If I could ask you to take a look at the --
10 actually, I'm sorry. We do need to color in the next
11 box, please.

12 And if I could ask you to take a look at the
13 next document in the left-hand pile.

14 MR. STONE: Which one are we coloring in now?

15 MR. OLIVER: It's the 42.3 box above the line.

16 BY MR. OLIVER:

17 Q. Mr. Vincent, the next document you should have
18 is CX-1930. These should be a set of your green
19 sheets.

20 A. Yes.

21 Q. And if I could ask you to take a look, please,
22 at page 34.

23 And again, I won't ask you any questions since
24 we did cover this before, but I just did want to give
25 you a context.

1 Do you see there's a reference there to a
2 teleconference with Richard Crisp concerning status of
3 divisional applications on June 23, 1992?

4 A. Yes.

5 MR. OLIVER: If we could color that box in
6 yellow, please, Your Honor.

7 JUDGE McGUIRE: Yes.

8 BY MR. OLIVER:

9 Q. Then, Mr. Vincent, if I could ask you to take a
10 look at the next document in the top of the left-hand
11 pile. It has a number CX-252a.

12 A. Yes. I've had a chance to look through it
13 quickly.

14 Q. Okay. Do you recall ever having seen CX-252a
15 at any time before the end of June 1996?

16 A. No.

17 Q. During the teleconference that you had with
18 Mr. Crisp on June 23, 1992, do you recall Mr. Crisp
19 saying anything to the effect that JEDEC had issued a
20 ballot relating to mode register?

21 A. You need to help me out on this. June 23, is
22 that the one that was in --

23 Q. Yes. That's the reference I gave you a moment
24 ago to your green sheets.

25 A. Okay. I see it. Okay. That's in CX-1930,

1 page 34. Okay.

2 Q. Yes.

3 A. Okay. Maybe if you could ask that again.

4 Q. Sure.

5 My question is: During the telephone
6 conversation that you had with Mr. Crisp as reflected
7 in CX-1930, do you recall Mr. Crisp saying anything to
8 the effect that JEDEC had issued ballots relating to a
9 mode register?

10 A. No, I don't recall that.

11 MR. OLIVER: If we could color in the next box
12 blue, Your Honor.

13 BY MR. OLIVER:

14 Q. Mr. Vincent, if you could take a look at the
15 next document at the top of the left-hand stack. It
16 has a CX number of 1949.

17 (Pause in the proceedings.)

18 Now, Mr. Vincent, CX-1949 are a set of your
19 handwritten notes from a meeting with Mr. Richard Crisp
20 on September 25, 1992; is that right?

21 A. Yes.

22 Q. And again I'd like to direct your attention to
23 two portions again just to be certain that you have the
24 context that you need for my next questions. First, on
25 the first page, item number 2, DRAM programmable

1 latency via control or register. Is that the --

2 A. It says "reg," but yeah, register, is what that
3 means.

4 Q. And then a couple of lines below: So cause
5 problem with Sync DRAM and RamLink?

6 A. Yeah. A couple lines below that, yes.

7 Q. Yeah.

8 And then if you could turn, please, to the
9 second page.

10 A. Yes.

11 Q. Underneath the portion that's been scribbled
12 out it reads: Claim 121, arrow, P014D last portion
13 important, arrow, predetermined amount of time that
14 device must wait, arrow, emphasis, arrow, make indep,
15 for independent, claim; is that right?

16 A. Yes.

17 Q. Under that, broad, arrow, concept, arrow, reg
18 for register, contains time one must wait for access
19 time to respond; is that right?

20 A. Yes.

21 MR. OLIVER: If we could color in the next box
22 yellow, please, Your Honor.

23 BY MR. OLIVER:

24 Q. Mr. Vincent, if I could ask you to take a look
25 at the next document in the right-hand pile. It bears

1 the number CX-42a.

2 A. Yes.

3 Q. These are the minutes of the JC-42.3
4 subcommittee meeting of September 1992, specifically
5 September 16 to 17, 1992.

6 A. I've had a chance to flip through it now, yes.

7 Q. If I could ask you to turn in particular to
8 pages 11 through 33.

9 (Pause in the proceedings.)

10 I'm sorry. It should start on page 12. I'm
11 sorry.

12 On page 12 is a document that has the title
13 16Mb SDRAM Specification. Do you see that?

14 A. Yes.

15 Q. Actually if I could ask you to also retrieve
16 CX-1949, your handwritten notes that we looked at a
17 moment ago, I'd like to have you have that available
18 before I ask the next question.

19 A. Yes.

20 Q. In CX-1949, on page 4?

21 A. Yes.

22 Q. Towards the bottom it reads, "Richard will get
23 me copy of RamLink spec and Sync DRAM spec."

24 Do you see that?

25 A. Yes.

1 Q. Now, with reference to pages 12 through 33 of
2 CX-42a, do you recall Mr. Crisp having provided a copy
3 of that document to you sometime shortly after the
4 September 1992 meeting?

5 A. No.

6 Q. Do you recall having seen pages 12 through 33
7 of CX-42a at any time before the end of June 1996?

8 A. I don't recall.

9 MR. OLIVER: Your Honor, if we can color in the
10 next box, please.

11 JUDGE McGUIRE: Go ahead.

12 BY MR. OLIVER:

13 Q. Mr. Vincent, if I could ask you to look for the
14 next document at the top of the left-hand pile. It
15 should have a number CX-680.

16 A. Yes.

17 Q. And again, if you could take a very quick look
18 through this document.

19 For the record, it is an e-mail from
20 Billy Garrett to a number of individuals at Rambus,
21 date September 21, 1992, first line: Notes from JEDEC
22 meeting.

23 Mr. Vincent, do you recall having seen CX-680
24 at any time before the end of June 1996?

25 A. No.

1 Q. If you'll set that document aside then,
2 please.

3 At the September 25, 1992 meeting with
4 Mr. Crisp, do you recall Mr. Crisp telling you that at
5 the last JEDEC meeting Sun had issued a straw man
6 specification for an SDRAM?

7 A. I don't recall.

8 Q. At the September 25, 1992 meeting, do you
9 recall Mr. Crisp saying anything to the effect that at
10 the last JEDEC meeting it had been decided that the
11 only programmable latency needed is CAS read latency
12 123 or option for clock cycles?

13 A. What was the last? Or option for clock cycles?
14 Is that what you said?

15 Q. Yes.

16 A. I don't recall.

17 Q. Do you recall at the September 25, 1992 meeting
18 Mr. Crisp saying anything to the effect that at the
19 previous JEDEC meeting burst lengths of optionally 1,
20 optionally 2, 4 and 8 had been defined?

21 A. I don't recall.

22 MR. OLIVER: If we could fill in the next box
23 then, please, Your Honor.

24 JUDGE McGUIRE: Go ahead.

25 BY MR. OLIVER:

1 Q. Mr. Vincent, if I could ask you to take a look
2 at the next document in your right-hand pile. It has
3 the number JX-15.

4 (Pause in the proceedings.)

5 A. Okay. I've had a chance to leaf through it.

6 Q. Okay. And I'm particularly interested in
7 page 14, item 12, which reads "conclusion of all
8 synchronous DRAM pass/hold ballots," and item 13,
9 "press release on Sync DRAM."

10 Do you recall having seen this document at any
11 time before the end of June 1996?

12 A. No.

13 MR. OLIVER: Your Honor, if we could fill in
14 the next box, please.

15 JUDGE MCGUIRE: Yes.

16 BY MR. OLIVER:

17 Q. Mr. Vincent, if I could ask you to look at the
18 next document in the left-hand stack in front of you,
19 the document with the number CX-1957.

20 A. Yes.

21 Q. This is a letter from you to Mr. Farmwald, with
22 copies to Allen Roberts and Richard Crisp, dated
23 April 22, 1993; is that right?

24 A. Yes.

25 Q. And in this letter you're enclosing certain

1 draft patent applications?

2 A. No. Actually it says -- actually it says both
3 draft preliminary amendments -- no, just draft
4 preliminary amendments for the patent applications.

5 Q. Okay. And you included copies of the
6 enclosures to Mr. Roberts and Mr. Crisp?

7 A. That's what the letter says, yes.

8 Q. And if I could ask you to take a look at the
9 next document in the left-hand stack. It has a number
10 of CX-1457.

11 This is a document with the caption 73305.P010D
12 In the United States Patent and Trademark Office. The
13 right-hand side is stamped "draft," under that a
14 handwritten date 4-22-93.

15 Does CX-1457 appear to be one of the draft
16 applications that you forwarded on April 22, 1993?

17 A. It appears to be logically consistent with the
18 letter, given the dates. I just don't have an
19 independent recollection.

20 Q. If you take a look at the letter, CX-1957, and
21 in the caption numbered 2 under Our Reference Number
22 73305.010 D. Do you see that?

23 A. Yes.

24 Q. And compare that to the upper left-hand corner
25 of CX-1457.

1 A. Yes. It's the same.

2 Q. Does that refresh your recollection that
3 CX-1457 was one of the drafts that you enclosed in your
4 letter?

5 A. Well, yeah. I mean, that's why I was saying
6 logically. I mean, it's referencing that, the dates
7 are right, so I just -- you know, this was ten years
8 ago. I just don't remember if this was actually
9 enclosed or not. That's all. But everything appears
10 to suggest that.

11 Q. Okay. You wouldn't have any dispute if we were
12 to color that box in yellow?

13 A. Which -- yellow means that --

14 Q. That --

15 A. Yellow means what now?

16 Q. That you were involved or you had awareness of
17 the event or document.

18 A. I guess I'd be comfortable given that
19 everything appears that -- all the facts appear that
20 that's the case. Again, I don't have any -- you know,
21 this was ten years ago. I don't have any
22 independent -- what my secretary enclosed or didn't
23 enclose, but that's what it looks like.

24 MR. OLIVER: If we could color in the next box,
25 please, Your Honor. Thank you.

1 BY MR. OLIVER:

2 Q. Mr. Vincent, if I could ask you to locate the
3 copy of the green sheets that we looked at a few
4 moments ago as CX-1930.

5 A. Yes. I found that.

6 Q. And if I could direct your attention, please,
7 to page 84.

8 A. Yes.

9 Q. Towards the bottom of the page there's an
10 entry, 5-13-93 Lester Vincent conference with
11 Mike Farmwald and Richard Crisp regarding preliminary
12 amendment.

13 Do you see that?

14 A. Yes.

15 Q. Simply I wanted to refresh your recollection of
16 a conference that took place on May 13, 1993 so that we
17 could color in the next box.

18 A. Have we moved on from these other exhibits
19 where it's a new -- we're not talking about the letter
20 anymore; right?

21 Q. Well, let me slow down a moment and ask a
22 couple additional questions just to be certain the
23 record is clear then.

24 Do you see on page 84 towards the bottom
25 there's a reference to a conference with Mike Farmwald

1 and Richard Crisp regarding preliminary amendment?

2 A. Yes, I see that.

3 Q. And as you turn back to page 83, about
4 one-third of the way down the page there's another
5 entry also for May 13, 1993, Lester J. Vincent
6 conference with Richard Crisp and Mike Farmwald
7 regarding preliminary amendment.

8 Do you see that?

9 A. Yes.

10 Q. Now, those conferences related to the
11 preliminary amendments that you forwarded on April 22,
12 1993; isn't that right?

13 (Pause in the proceedings.)

14 A. Well, I can see that the -- on the page 83 the
15 time entry you're referring to refers to matter number
16 P10D and the one on page 84 refers to P13D, and that
17 date was May 13 for both and the letter is April 22,
18 but I don't have any, you know, independent
19 recollection of that, so I don't recall.

20 Q. Okay. Just so the record is clear, though, if
21 you'll also take a look at CX-1457, do you see the
22 draft we looked at just a moment ago?

23 A. Yes.

24 Q. In the upper left-hand corner there is the
25 P010D number?

1 A. Yes.

2 Q. And that matches the entry on CX-1930 with
3 respect to the May 13, 1993 conference?

4 A. Yes.

5 MR. OLIVER: Your Honor, if we could fill in
6 the next box, please.

7 JUDGE McGUIRE: All right.

8 BY MR. OLIVER:

9 Q. Mr. Vincent, if I could ask you to take a look
10 at the next document in the left-hand pile. It has the
11 Bates number CX-1458.

12 A. Yes.

13 Q. Do you recognize CX-1458 to be a preliminary
14 amendment that was filed with the Patent and Trademark
15 Office?

16 A. Yes.

17 Q. And if you look at the date in the stamp in the
18 right-hand side of the first page, this was filed on
19 May 17, 1993; is that right?

20 A. Yes.

21 MR. OLIVER: Your Honor, if we could fill in
22 the next box, please.

23 JUDGE McGUIRE: Yes.

24 BY MR. OLIVER:

25 Q. Mr. Vincent, if I could ask you to locate

1 JX-15, these are a set of the meeting minutes from the
2 May 1993 JEDEC meeting. I believe it's a document we
3 looked at earlier today.

4 MR. STONE: Your Honor, I'm just confused. We
5 just filled in the box that says "'651" on the basis of
6 the preliminary amendment, Exhibit CX-1458?

7 MR. OLIVER: Yes.

8 MR. STONE: So the box "'651" just means that a
9 preliminary amendment was filed?

10 MR. OLIVER: Was filed and Mr. Vincent was
11 aware of that at the time.

12 MR. STONE: Okay.

13 THE WITNESS: I'm sorry. I'm supposed to be
14 looking for something?

15 BY MR. OLIVER:

16 Q. Yes. JX-15. These are a set of the --

17 A. I found it, JX-15.

18 Q. Actually, I'm sorry. Could you hold on one
19 second, please.

20 A. Uh-huh.

21 MR. OLIVER: I'm sorry, Your Honor. If we
22 could hold on just one minute, please.

23 JUDGE McGUIRE: Go ahead.

24 (Pause in the proceedings.)

25 MR. OLIVER: My apology, Mr. Vincent. I gave

1 you false information.

2 Your Honor, may I approach?

3 JUDGE McGUIRE: Go ahead.

4 BY MR. OLIVER:

5 Q. Mr. Vincent, I've handed you a copy of JX-16,
6 which are the JX-42.3 subcommittee minutes of the
7 meeting of May 19 and May 20, 1993, and I'd like to
8 direct your attention in particular to page 5 under
9 caption 8.1, Sync DRAM Ballots.

10 A. Okay. Let me just take a look at that page.
11 I've flipped through the rest of that document, but let
12 me just take a look at that page.

13 (Pause in the proceedings.)

14 Okay. 8.1, I've reviewed that.

15 Q. Do you recall seeing these minutes at any time
16 before the end of June 1996?

17 A. No.

18 Q. Do you recall any representative of Rambus
19 telling you in May or June of 1993 that the JEDEC
20 council had approved the ballots that make up the JEDEC
21 SDRAM standard?

22 A. I don't recall.

23 MR. OLIVER: If we could fill in the next box
24 then, please, Your Honor.

25 JUDGE McGUIRE: Yes.

1 BY MR. OLIVER:

2 Q. Mr. Vincent, if I could ask you to locate the
3 next document in the pile to the left-hand side. It
4 should have a Bates number CX- -- excuse me -- an
5 exhibit number CX-1959.

6 A. Yes. Let me take a look through this.

7 (Pause in the proceedings.)

8 Yes.

9 Q. Now, you received a copy of CX-1959, didn't
10 you?

11 A. It appears so since it appears to be my
12 handwriting at the top where it says "re: Rambus."

13 Q. Now, if I could direct your attention to the
14 handwriting in the left-hand margin underneath 1, 2 and
15 3. Do you see that?

16 A. Yes.

17 Q. Now, do you understand that to be referring to
18 your internal file numbers?

19 A. It's not my handwriting, but that's what it
20 appears to be referring to.

21 Q. Well, at the time that you received the e-mail,
22 CX-1959, did you have an understanding that paragraph
23 number 1 referred to the preliminary amendment that was
24 filed on May 17, 1993, CX-1458?

25 A. You know, I just don't recall. You know, this

1 was like ten years ago and I just don't recall. I see
2 the P14 there under 1, but I just don't recall.

3 Q. If I could ask you to take a look back at
4 CX-1458.

5 And if I could direct your attention to the
6 upper left-hand corner underneath the stamp. It
7 appears to read 73305.P014D. Do you see that?

8 A. Yes.

9 Q. Does that refresh your recollection in any way
10 that paragraph 1 of CX-1959 referred to CX-1458?

11 A. Well, I see that CX-1458 refers to P14D. I
12 see -- which is divisional. I see that there's some
13 handwriting there that says P14 which is not my
14 handwriting. P14 -- I don't have -- you know, I don't
15 have independent recollection of this, you know, it was
16 so long ago.

17 MR. OLIVER: Okay. Anyway, Your Honor, if we
18 could color in the next box, please.

19 BY MR. OLIVER:

20 Q. Mr. Vincent, if you could take a look at the
21 next document in the left-hand pile, CX-1961.

22 A. Yes.

23 Q. This is a letter that you sent to Mr. Ware with
24 copies to Allen Roberts, Richard Crisp and
25 Mike Farmwald of Rambus on June 30, 1993; is that

1 right?

2 A. Yes.

3 Q. And you included as one of two enclosures
4 the '692 application; is that right?

5 MR. STONE: Objection. Misstates the
6 document.

7 JUDGE McGUIRE: Sustained.

8 BY MR. OLIVER:

9 Q. Mr. Vincent, did you send enclosures with
10 CX-1961?

11 A. Yes.

12 Q. And what were those enclosures?

13 A. Well, the letter -- again, I don't have an
14 independent recollection, it's so long ago, but it
15 says there's preliminary amendments for -- are
16 enclosed for those patent applications, which would be
17 P7D, which is the '692 application, and P013D, which
18 is the '212, so it's preliminary amendments were
19 enclosed.

20 Q. Okay. Thank you.

21 If you could look at the next document in the
22 pile on the left-hand side, CX-1459.

23 A. Yes.

24 Q. Does this appear to be one of the preliminary
25 amendments that was sent with the June 30 letter?

1 A. Yes. It appears so because it's preliminary
2 amendment in P7D and it was -- which was filed June 28,
3 which would have been before the date of the June 30
4 letter.

5 Q. Okay. Thank you.

6 Your Honor, if we could fill in the next box,
7 the '692 box.

8 Mr. Vincent, if I could ask you to take a look
9 at the next document in the left-hand pile of
10 documents in front of you. It has an exhibit number
11 JX-56.

12 A. Okay. I've had a chance to flip through it.

13 Q. Do you recall having seen this document at any
14 time before the end of June 1996?

15 A. No.

16 Q. If I could ask you to turn just to one page in
17 particular just to be certain, and unfortunately the
18 page numbers are cut off, but if you look at the Bates
19 number JEDEC 0007793.

20 A. Which is what, page 114?

21 Q. It may be. I have --

22 A. Oh, yours is cut off. Mine is not cut off.
23 It's 7793, JEDEC number, Bates number.

24 Q. It has the caption SDRAM Mode Register?

25 A. I'm sorry. What?

1 Q. It has a caption at the top of the page that
2 reads "SDRAM Mode Register"?

3 A. Yes.

4 Q. Do you recall having seen that page at any time
5 before the end of June 1996?

6 A. No.

7 MR. OLIVER: Your Honor, if we can color in the
8 next box.

9 BY MR. OLIVER:

10 Q. Mr. Vincent, if you could locate the next
11 document on the top of the left-hand pile, please. It
12 has the Bates number CX-1970.

13 A. Yeah. Let me have a chance to look through
14 this.

15 (Pause in the proceedings.)

16 Yes, I've had a chance to look through it.

17 Q. Now, these are your notes of a meeting with
18 Gary Harmon, Geoff Tate and Allen Roberts on
19 January 10, 1994; is that right?

20 A. Yes.

21 Q. And if I can just direct your attention to the
22 beginning portion of the notes, it reads: Enforcement,
23 sink DRAMs, low swing signals, config registers,
24 programmable latency, and PLLs.

25 A. Yes. Sink, S-I-N-K, yes.

1 MR. OLIVER: Your Honor, if we can fill in the
2 next box, please.

3 BY MR. OLIVER:

4 Q. Mr. Vincent, if I can ask you to take a look at
5 the next document in the top of the left-hand stack in
6 front of you, Bates -- excuse me --
7 Exhibit Number CX-734.

8 A. Yes.

9 Q. This is a letter from Allen Roberts of Rambus
10 to you dated May 5, 1994; is that right?

11 A. Yes.

12 Q. Now, this is a -- sorry. Let me withdraw
13 that.

14 Do you recall receiving this letter in May of
15 1994?

16 A. Yes.

17 Q. Let me direct your attention if I could,
18 please, to paragraph 1.0.

19 It reads: "Use of both edges of the clock for
20 transmission of address, commands, or data or any
21 combination on DRAM device to increase effective
22 bandwidth/pin."

23 Do you see that?

24 A. Yes.

25 Q. Now, at the time, did you understand that to be

1 the same concept as dual-edged clocking?

2 A. I don't recall.

3 Q. If I could ask you to take a look at
4 paragraph 2.4 at the very bottom of the page, it reads,
5 "Selective precharging of banks following an access to
6 improve access time."

7 Do you see that?

8 A. Yes.

9 Q. Now, at the time, did you understand that to be
10 the same concept as auto-precharge?

11 A. I don't recall.

12 MR. OLIVER: Your Honor, if we could fill in
13 the next box, please.

14 BY MR. OLIVER:

15 Q. Mr. Vincent, if I could ask you to look at the
16 next document in the left-hand stack of documents,
17 please.

18 This is a document with the Bates number
19 CX-738. It is an e-mail from John Dillon to exec,
20 Barth, Ware at Rambus, dated June 16, 1994.

21 A. Yes, I see it. I've had a chance to --

22 Q. Do you recall having seen this e-mail at any
23 time before the end of June 1996?

24 A. No.

25 Q. If you could now please set that document

1 aside.

2 Mr. Vincent, at any time before the end of
3 June 1996, do you recall anybody at Rambus saying to
4 you that patenting the auto-precharge feature would
5 have high harassment value?

6 A. I don't recall that.

7 Q. Do you recall anybody at Rambus saying to you
8 before the end of June 1996 that they wished to patent
9 auto-precharge because it was used by third-party SDRAM
10 controllers?

11 A. I don't recall.

12 MR. OLIVER: Your Honor, if we could fill in
13 the next box blue.

14 BY MR. OLIVER:

15 Q. Mr. Vincent, if I could ask you to locate the
16 next document in the left-hand pile of documents in
17 front of you.

18 This is a document with Exhibit Number CX-745.
19 It consists of a handwritten note. Behind that is a
20 letter. And behind that is a preliminary amendment
21 with a "draft" stamp on it.

22 (Pause in the proceedings.)

23 A. Okay. I've had a chance to leaf through it.

24 Q. At any time before the end of June 1996, do you
25 recall having seen all or portions of CX-745?

1 A. It appears portions that I -- I don't have any
2 independent recollection, but from the fact that I'm a
3 cc recipient it suggests that I've seen portions, but
4 there's portions of this I don't recall seeing.

5 Q. Which portions do you not recall seeing?

6 A. The very first page, which is page 1 of CX-745.
7 Then I note starting on page 4 there is handwriting and
8 then on page 5, page 6, 7, page 8, page 11, and then
9 also page 15 looks like it's, you know, the first page
10 of something, a patent application, and you know, I --
11 it doesn't -- the cover letter doesn't seem to suggest
12 that. And this was '94. This was nine years ago. I
13 don't remember with independent recollection seeing all
14 this stuff.

15 Q. Just so the record is clear, you say that you
16 do not recall having seen page 1?

17 A. Right. That's correct.

18 Q. Would it be fair to say that you did see
19 pages 2 through 14 with the exception of the
20 handwriting?

21 A. That seems to be -- again, I don't have an
22 independent recollection, but since I'm the cc
23 recipient, in the normal course I probably would have
24 seen it.

25 Q. Now, if I could ask you to take a look, please,

1 at pages 4 and 5, I'd like to direct your attention to
2 claim 151 that appears towards the bottom of page 4 and
3 carries over to the top of page 5.

4 And I'm particularly interested in the last
5 element beginning the next to last line of page 4 that
6 reads "the receiver circuit coupled to the conductor
7 and the first circuit, the receiver circuit for
8 latching information from the conductor in response to
9 a rising edge of the clock signal and a falling edge of
10 the clock signal."

11 And my question, Mr. Vincent, is: Did you
12 understand at the time that claim to be referring to
13 dual-edged clocking?

14 A. Let me -- I need a chance to just read the
15 claim.

16 Q. Sure.

17 (Pause in the proceedings.)

18 A. I see what the claim says. You know, I don't
19 have independent memory of -- you know, it's nine years
20 ago, but I see what it says. It says rising edge and
21 falling edge.

22 Q. By the way, if you could look at page 3,
23 please, just confirm that this draft preliminary
24 amendment was the -- what might have been referred to
25 as the '646 amendment?

1 A. Yes.

2 Q. Okay. If you could set that document aside,
3 please.

4 At any time before the end of June 1996, do
5 you recall Mr. Roberts ever telling you that
6 the '646 application was intended to be for the SDRAM
7 defense?

8 A. I don't recall.

9 Q. Before the end of June 1996, do you recall
10 anybody at Rambus telling you that the '646 application
11 was intended to be for the SDRAM defense?

12 A. I don't recall.

13 MR. OLIVER: Your Honor, if we could fill in
14 the next box.

15 And Mr. Vincent, I guess I would propose to
16 color in this box half yellow, half blue, to reflect
17 the fact that you've seen portions of the document but
18 not all the document. Would that be fair?

19 THE WITNESS: Yes.

20 MR. STONE: Well, to the extent the box says
21 "Roberts note," that note is the only part of the
22 document the witness said he had not seen, so the
23 "Roberts note" should be blue.

24 MR. OLIVER: Your Honor, we're happy to make it
25 blue -- will you object to making the entire box blue,

1 Mr. Vincent?

2 THE WITNESS: No.

3 BY MR. OLIVER:

4 Q. It does say Roberts notes.

5 A. Roberts notes, which appears to be the first
6 page.

7 Q. Okay. We'll make the entire box blue.

8 Mr. Vincent, if you could locate the next
9 document in the left-hand pile of documents in front of
10 you. This is CX-1466.

11 A. Yes.

12 Q. I just want to confirm that CX-1466 is the
13 preliminary amendment to the '646 application that was
14 filed in September of 1994.

15 A. Yes.

16 MR. OLIVER: Your Honor, if we could fill in
17 the next box, please.

18 BY MR. OLIVER:

19 Q. Mr. Vincent, if I could ask you to locate
20 JX-21, which should be the next document in the
21 right-hand stack of documents.

22 (Pause in the proceedings.)

23 Mr. Vincent, JX-21 are the meeting minutes of
24 the JC-42.3 subcommittee meeting held in September of
25 1994. I'd like to direct your attention particularly

1 to pages 86 through 92, and I'd like to focus in
2 particular on page 91.

3 A. What was the range of pages again?

4 Q. Pages 86 through 92 with particular reference
5 to page 91.

6 A. Okay. I've had a chance to look at those
7 pages.

8 Q. Do you recall having seen this presentation at
9 any time before the end of June 1996?

10 A. No.

11 MR. OLIVER: Your Honor, if we could fill in
12 the next box, please.

13 BY MR. OLIVER:

14 Q. Mr. Vincent, if I could next ask you to locate
15 again CX-711. It's that document we looked at earlier
16 today. It's that 200-page compilation of e-mails. It
17 will take me a moment to find it as well.

18 (Pause in the proceedings.)

19 Your Honor, may I approach?

20 JUDGE MCGUIRE: Yes. Go ahead.

21 THE WITNESS: I found it. It's right there. I
22 was just putting everything back.

23 CX-711?

24 BY MR. OLIVER:

25 Q. Yes, that's right.

1 And if I could ask you to turn in particular to
2 page 36.

3 If you see towards the top of page 36 there's
4 an e-mail that begins six or so lines down with the
5 date September 14, 1994, to exec marketing from
6 crisp@jupiter (Richard Crisp), subject: JEDEC,
7 number 3, NEC proposes PLL on SDRAM.

8 Do you see that?

9 A. Yes.

10 Q. If I could ask you to read to yourself from
11 there down to -- about five or six lines down on
12 page 37 down to the line: What is the exact status of
13 the patent with the PLL claim?

14 (Pause in the proceedings.)

15 A. Okay. I've had a chance to read it.

16 Q. Do you recall having seen that e-mail at any
17 time before the end of June 1996?

18 A. No.

19 MR. OLIVER: I'm sorry, Your Honor. If I could
20 have just a moment, please.

21 JUDGE MCGUIRE: Go ahead.

22 MR. OLIVER: I'm sorry, Your Honor. We've
23 misplaced one document, if we could have just a
24 moment.

25 JUDGE MCGUIRE: Go ahead.

1 THE WITNESS: Is it okay if I stand just a
2 second?

3 JUDGE McGUIRE: No problem.

4 (Pause in the proceedings.)

5 MR. OLIVER: May I approach, Your Honor?

6 JUDGE McGUIRE: Go ahead.

7 BY MR. OLIVER:

8 Q. Mr. Vincent, I've handed you a document that's
9 marked as CX-757. It bears the caption at the top
10 Subject: Patent Issues, date Wednesday, September 14,
11 1994, from crisp@jupiter (Richard Crisp), to exec, cc
12 Crisp.

13 (Pause in the proceedings.)

14 A. Okay. I've had a chance to read it quickly.

15 Q. Okay. Let me if I could just focus your
16 attention on four lines of embedded text that appears
17 near the top with four arrows in front of it: So if we
18 want to fight this one after the claim is issued, we
19 better stock up our legal war chest. Allen.

20 Do you see that?

21 A. Yes.

22 Q. Do you recall seeing at any time before the end
23 of June 1996 any e-mail from Allen Roberts containing
24 that language?

25 A. No.

1 Q. Do you recall seeing at any time before the end
2 of June 1996 CX-757?

3 A. No.

4 Q. Okay. If I could ask you to set that document
5 aside, please.

6 A. Okay. I don't know -- it's missing a staple.
7 I don't know if you want to -- no? Just put it down?
8 Okay.

9 Q. That will be fine.

10 MR. STONE: Again, I would think it should come
11 off the screen given the lack of foundation.

12 BY MR. OLIVER:

13 Q. Mr. Vincent, at any time before the end of
14 June 1996, do you recall Mr. Crisp ever saying that he
15 thought it was likely that Rambus would have to fight
16 litigation with respect to on-chip PLL or DLL?

17 A. No, I don't recall that.

18 Q. At any time before the end of June 1996 do you
19 recall any representative of Rambus saying they thought
20 it was likely that Rambus would have to fight
21 litigation with respect to use of on-chip PLL or DLL?

22 A. I don't recall.

23 MR. OLIVER: Your Honor, if we could fill in
24 the next box, please.

25 JUDGE McGUIRE: Go ahead.

1 BY MR. OLIVER:

2 Q. Mr. Vincent, if I could ask you to turn,
3 please, to the next document in the pile to your left.
4 It should be CX-763.

5 A. What was the number again?

6 Q. CX-763.

7 A. Okay. That wasn't the next one, but -- 763.
8 I'll put that one back. Okay. 763.

9 Q. For the record, this should be an e-mail from
10 Richard Crisp to Roberts, exec, dated October 25, 1994,
11 subject: Re: Samsung deal details.

12 (Pause in the proceedings.)

13 A. Okay. I've had a chance to read it quickly.

14 Q. If I could direct your attention first to the
15 embedded text that appears at the top with arrows in
16 front of it underneath the line "Allen Roberts wrote."

17 Do you see that?

18 A. Yes.

19 Q. At any time before the end of June 1996 do you
20 recall seeing an e-mail containing that language?

21 A. No.

22 Q. At any time before the end of June 1996 do you
23 recall having seen CX-763?

24 A. No.

25 Q. If you could set that document aside, please.

1 Now, before the end of June 1996 -- actually,
2 we should take the document off the screen, please.
3 Thanks.

4 Before the end of June 1996, do you recall
5 Mr. Crisp saying that he hoped Rambus could sue other
6 companies for using PLLs on SDRAMs?

7 A. I don't recall that.

8 Q. Before the end of June 1996 do you recall any
9 representative of Rambus saying that they hoped Rambus
10 could sue other companies for using PLLs on SDRAMs?

11 A. No, I don't recall that.

12 MR. OLIVER: Your Honor, if we could fill in
13 the next box, please.

14 JUDGE McGUIRE: Go ahead.

15 MR. OLIVER: By the way, Your Honor, I note
16 that it is a little after 12:30. I don't know what
17 your preference is for the lunch break. We could
18 either break or keep going. It's up to you.

19 JUDGE McGUIRE: I'd almost prefer to keep
20 going and get this thing wrapped up. How much more
21 time do you anticipate? A half hour? Maybe a little
22 more?

23 MR. OLIVER: I'm thinking it's probably more
24 likely 45 minutes to an hour, Your Honor.

25 JUDGE McGUIRE: Any preference? It doesn't

1 matter to me.

2 MR. STONE: Whatever Mr. Oliver wants, as long
3 as the witness is okay. Maybe a short break now and
4 then just continue.

5 JUDGE McGUIRE: That's a good idea. Let's take
6 a ten-minute break and then we'll come back and then
7 we'll conclude this and then we'll take a break for
8 lunch.

9 MR. STONE: Thank you.

10 (Recess)

11 BY MR. OLIVER:

12 Q. Mr. Vincent, if I could ask you to take a look
13 at the next document in the left-hand stack of
14 documents. This is CX-1470.

15 A. Yes.

16 Q. I just wanted to confirm for the record and for
17 purposes of your demonstrative here that this is a
18 preliminary amendment to the '961 application filed on
19 January 6, 1995?

20 A. '961. Yes.

21 Q. And again, this is a document that you were
22 aware of at the time?

23 A. Well, it's -- I mean, it's signed by
24 Scott Griffin, not by me. You know, this appears to
25 be what was filed with the Patent and Trademark Office.

1 I imagine at some point I became aware of it, but I
2 mean, I can't -- I don't have an independent
3 recollection of, you know, at the time of filing I was
4 aware of it.

5 Q. Who -- at the time who was Scott Griffin?

6 A. Scott Griffin was an associate attorney at our
7 law firm.

8 Q. Was he working at your direction at the time?

9 A. Yes.

10 Q. Would you object if we were to color that box
11 in yellow?

12 A. No.

13 MR. OLIVER: Your Honor, if we could color in
14 the next box, please.

15 JUDGE MCGUIRE: Yes.

16 BY MR. OLIVER:

17 Q. If you could take a look at the next document
18 in the right-hand pile of documents, please. It should
19 be JX-26.

20 A. Yes. Let me just leaf through it.

21 (Pause in the proceedings.)

22 Q. Again, take your time to leaf through the
23 document if you want to do so. My question focuses
24 specifically on pages 111 through 113 and particularly
25 page 112.

1 A. Did you say 111 through 113 and 112?

2 Q. Yes.

3 A. So one specifically.

4 Q. Yes. Exactly.

5 A. Okay.

6 (Pause in the proceedings.)

7 Okay. I've had a chance to look at that.

8 Q. Do you recall having seen this presentation at
9 any time before the end of June 1996?

10 A. No.

11 MR. OLIVER: If we could color in the next box,
12 please, Your Honor.

13 BY MR. OLIVER:

14 Q. And Mr. Vincent, the next box relates to
15 CX-711. This is the compilation of Mr. Crisp's
16 e-mails. It's actually a document we looked at earlier
17 this morning, pages 68 through 75. I believe this
18 morning you testified you do not recall having seen the
19 document. I just want to confirm that, but I would
20 like to give you a chance to look at those pages again.
21 Again, it's CX-711, pages 68 to 75.

22 A. Okay. I have it. Let me just take a quick
23 look.

24 (Pause in the proceedings.)

25 Okay. I've had a chance to look at it.

1 Q. And do you recall having seen this document at
2 any time before the end of June 1996?

3 A. No.

4 MR. OLIVER: Your Honor, if we could color in
5 the next box, please.

6 JUDGE McGUIRE: Go ahead.

7 BY MR. OLIVER:

8 Q. Now, Mr. Vincent, if I could ask you to take a
9 look at the next document in the left-hand stack of
10 documents. It has the number CX-797.

11 This is an e-mail with the caption at the top
12 Subject: Re: 73305.015D, date June 6, 1995, from
13 crisp@jupiter (Richard Crisp) to Allen Roberts,
14 Rick Barth, and containing apparently two embedded
15 e-mails.

16 A. Okay. I've had a chance to look at the
17 document.

18 Q. If I could direct your attention first towards
19 the bottom of page 1, there's a caption reading
20 "Forwarded Message" and then there's text with two
21 arrows in front of it.

22 Do you see that?

23 A. Yes.

24 Q. Do you recall ever seeing an e-mail containing
25 that text at any time before the end of June 1996?

1 A. No.

2 Q. If I could then direct your attention to the
3 middle of the page, there's some text with a single
4 arrow in front of it.

5 Do you see that portion?

6 A. You mean where it says "Rick"?

7 Q. Yes. We've pulled that up on the screen if
8 it's easier for you to read there.

9 A. I see it. I'm looking at it.

10 Q. Do you recall having seen an e-mail containing
11 that text at any time before the end of June 1996?

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

13 Q. If I could then direct your attention to CX-797
14 as a whole, do you recall having seen CX-797 at any
15 time before the end of June 1996?

16 A. No.

17 Q. Okay. If you could set that document aside,
18 please.

19 Your Honor, could we fill in the next box,
20 please.

21 Mr. Vincent, if you could locate the next
22 document in the pile to your left. It contains Exhibit
23 Number CX-1476.

24 A. Yes. I've had a chance to look through it.

25 Q. Okay. And again, just to confirm for purposes

1 of your demonstrative today, this is the preliminary
2 amendment filed on June 23, 1995; is that right?

3 A. Yes.

4 Q. Now, if you look in the upper left-hand corner,
5 the serial number in the box is blank.

6 Do you recall that this was assigned a serial
7 number 08/469/490?

8 A. No, I don't have numbers memorized like that,
9 no.

10 Q. Do you recall that this related to the
11 so-called '490 application?

12 A. No. Again, I don't recall the numbers. All I
13 see is a P010DC at the top, a docket number. When
14 there's an application filed, you know, there's no
15 serial number. It goes with the original, it goes with
16 the filing, it goes with the filing.

17 Q. The serial number would be assigned thereafter
18 by the Patent and Trademark Office; is that correct?

19 A. That's correct, yes, so it's typically left
20 blank at filing.

21 Q. Is this a document that you would have seen at
22 the time?

23 A. It's similar to my answer to the other question
24 in that Scott Griffin prepared it, he was working for
25 me. You know, I don't recall whether I saw it at the

1 time or saw it sometime later.

2 Q. Would it be fair to color in this box yellow?

3 A. Same answer, yes.

4 MR. OLIVER: Your Honor, if we could color in
5 this box.

6 BY MR. OLIVER:

7 Q. If I could ask you to locate the next document
8 in the left-hand pile. It has the Bates number
9 CX-2000.

10 A. Yes.

11 Q. And if I could ask you to turn, please, to
12 page 12.

13 A. Yes.

14 Q. And I'd like to direct your attention to
15 entries appearing towards the bottom of that page. I
16 apologize. It's difficult to read, but we did the best
17 that we could do.

18 If you read up four entries from the bottom,
19 there's a date that appears to be either August 2 or
20 September 2, 1995 with Vincent, next to that
21 "conference with Richard Crisp and Rick Barth
22 regarding claim coverage, including travel to and from
23 meeting."

24 Do you see that?

25 A. Yes, I do.

1 Q. And then underneath that you'll see three
2 entries relating to prepare a preliminary amendment or
3 prepare amendment?

4 A. Yes.

5 Q. Now, do you recall that work relating to
6 SyncLink?

7 A. You're talking about that work on this -- the
8 September work of '96?

9 Q. Yes, that's right.

10 A. No, I don't recall.

11 Q. If you could look at the top of -- I'm sorry.

12 Before we do that, toward the bottom of
13 page 12, those entries appear under your file number
14 P001C -- I can't read the last digit there. I believe
15 it's a 3? Do you see that?

16 A. It could be a 3, right, because the one -- the
17 thing in the middle of the page looks likes it says
18 P001C2 and there is a break and so it could be P03.

19 Q. If I could ask you to turn, please, to page 13.

20 A. Yes.

21 Q. And at the top of the page you also see the
22 file number P001C3?

23 A. Yes.

24 Q. And the first entry there, this one is from
25 December of '93, reads "Prepare preliminary amendment,

1 including review of SyncLink proposed standard."

2 Do you see that?

3 A. Yes.

4 MR. STONE: I don't think it says December
5 of '93, but I'm not --

6 MR. OLIVER: I'm sorry.

7 MR. STONE: I thought we were in December
8 of '95.

9 BY MR. OLIVER:

10 Q. Thank you. You're correct. December of 1995.

11 Then the entry reads "Prepare a preliminary
12 amendment, including review of SyncLink proposed
13 standard."

14 Do you see that?

15 A. Yes.

16 Q. Does that refresh your recollection that the
17 work you did in September of 1995 related to SyncLink?

18 A. No.

19 Q. If you could set that document aside.

20 Do you recall Mr. Crisp telling you at any time
21 before the end of June 1996 that he thought it was
22 really important to get a firm block for SyncLink?

23 A. A what? I'm sorry.

24 Q. To get a firm block for SyncLink.

25 A. A firm block for SyncLink? Is that what you

1 said?

2 Q. Yes.

3 A. No, I don't recall that.

4 Q. Do you recall Mr. Crisp saying to you at any
5 point that he believed that what Rambus had filed in
6 1990 should be able to block SyncLink but it was
7 necessary to sweat through the details with respect to
8 claims?

9 A. I don't recall.

10 Q. Your Honor, actually before we proceed, if we
11 could fill in the blocks relating to the Crisp
12 conference.

13 I'm speaking of the September 1995 conference
14 reflected in your green sheets, so I assume it should
15 be a yellow box?

16 MR. STONE: Apparently it was the Crisp-Barth
17 conference, wasn't it?

18 MR. OLIVER: It was, yes.

19 Would you prefer that we add Mr. Barth's name
20 to the box?

21 MR. STONE: Just in the interest of accuracy.
22 It seems like we should.

23 But however we do it, I just want the record to
24 reflect that the box being filled in does refer to a
25 conference which it appears from the record that also

1 Mr. Barth attended.

2 JUDGE McGUIRE: Noted.

3 THE WITNESS: Also I'm not sure that's
4 September or August, you know, on the green sheets.

5 BY MR. OLIVER:

6 Q. But it's either August or September 1995 you
7 had a meeting with Mr. Crisp and Mr. Barth; is that
8 right?

9 A. That's what the, yeah, the time entries appear
10 to say, yeah.

11 BY MR. OLIVER:

12 Q. Now, Mr. Vincent, if you could locate the next
13 document in the right-hand pile. It should be minutes
14 from September 11, 1995, JX-27. That's a document we
15 looked at this morning. Is that -- I don't know if
16 that's the one you have there or not.

17 A. I have JX-27.

18 Q. Yes, that is the document.

19 Mr. Vincent, you may recall that we looked at
20 this document this morning, specifically page 26. I'd
21 like to ask just more generally whether you recall
22 seeing JX-27 at all prior to the end of June 1996.

23 A. I'm taking a look at it. I'll take just a
24 quick look again.

25 (Pause in the proceedings.)

1 I don't recall.

2 MR. OLIVER: Your Honor, if we could fill in
3 the next box, please.

4 BY MR. OLIVER:

5 Q. Mr. Vincent, if you could locate the next
6 document in the pile to your left. It has the number
7 CX-1482.

8 Mr. Vincent, I simply want to confirm for
9 purposes of our exercise this morning that CX-1482 is
10 the notice of allowability relating to Rambus'
11 '646 application.

12 A. Yeah, along with -- yes, along with a notice of
13 allowance.

14 Q. And this is a document that you would have been
15 aware of at the time?

16 A. When you say "the time"?

17 Q. In October of 1995.

18 A. Well, there's a -- I would have eventually
19 become aware of this, but there's a time lag. That's
20 the date it was mailed from the U.S. Patent and
21 Trademark Office. It takes a while to get to us and
22 then it goes to our Los Angeles office for docketing
23 and then it comes up to me, so there's a time lag.

24 Q. Would it be fair to say then that you would
25 have become aware of this in sometime in October or

1 November of '95?

2 A. Yes.

3 MR. OLIVER: Your Honor, if we could fill in
4 the next box, please.

5 BY MR. OLIVER:

6 Q. Mr. Vincent, if you could locate the next
7 document in the pile to your left, CX-1483.

8 A. Yes.

9 Q. Again, just to confirm for our exercise this
10 morning, this is a copy of an amendment to the pending
11 '692 application that was filed in October of 1995?

12 A. Yes.

13 Q. And is this also a document that you would have
14 been aware of at the time?

15 A. Again, it's similar to my other answer in that
16 Tom Lee worked for me, I might not have become aware of
17 it exactly then but I'm sure eventually became aware of
18 it.

19 Q. And you would not object if we were to fill
20 that box in yellow?

21 A. Correct.

22 MR. OLIVER: May we fill in the next box,
23 please, Your Honor.

24 BY MR. OLIVER:

25 Q. Mr. Vincent, if I could ask you to locate the

1 next document in the left-hand pile. It has the number
2 CX-260.

3 A. Yes. I've had a chance to skim through it.

4 Q. Do you recall having seen CX-260 at any time
5 before the end of June 1996?

6 A. No.

7 Q. If I could ask you to turn, please, to page 12
8 and just to ask specifically with respect to that page,
9 do you recall having seen that page at any time before
10 the end of June 1996?

11 A. Page 12?

12 Q. Yes. This is the page with the caption at the
13 top Issues Related to the Clock.

14 A. No, I don't remember seeing this before.

15 Q. Okay. If you could set that document aside
16 then, please.

17 Before the end of June 1996, do you recall any
18 representative of Rambus telling you that JEDEC had
19 issued a survey ballot with a question relating to use
20 of an on-chip PLL or DLL?

21 A. I don't recall.

22 Q. Before the end of June 1996, do you recall any
23 representative of Rambus telling you that JEDEC had
24 issued a survey ballot with a question relating to use
25 of dual-edged clocking?

1 A. No.

2 MR. OLIVER: If we could fill in the next box,
3 please, Your Honor.

4 BY MR. OLIVER:

5 Q. Mr. Vincent, if I could ask you to locate the
6 next document in the pile to your right. It should
7 bear the number JX-28.

8 This is a set of minutes from the December 1995
9 JC-42.5 subcommittee that I'd like to direct your
10 attention to pages 36 through 48 -- excuse me -- 35
11 through 48.

12 A. Okay. Let me take a look.

13 Q. And I'm particularly interested in page 35.

14 (Pause in the proceedings.)

15 A. What was the page range again?

16 Q. Pages 35 through 48.

17 A. Okay. I've had a chance to skim through them.

18 Q. Do you recall having seen pages 35 through 48
19 at any time before the end of June 1996?

20 A. No.

21 Q. If you could set that document aside then,
22 please.

23 Before the end of June 1996, do you recall any
24 representative of Rambus telling you that use of
25 on-chip PLL and DLLs to reduce clock access time had

1 received strong support within JEDEC?

2 A. I don't recall.

3 Q. At any time before the end of June 1996, do you
4 recall any representative of Rambus telling you that
5 use of both edges of the clock for sampling inputs had
6 received mixed support within JEDEC?

7 A. Had received what? I'm sorry.

8 Q. Had received mixed support within JEDEC.

9 A. I don't recall.

10 Q. If I could ask you to locate, please, the next
11 document at the top of the right-hand pile, CX-1999.

12 I'm sorry. Left pile. I apologize.

13 A. Oh.

14 Q. I thought I was doing pretty well not to
15 confuse left with right up until now.

16 Now, Mr. Vincent, CX-1999 is a copy of your
17 notes of a meeting with Mr. Tony Diepenbrock dated
18 January 24, 1996; is that right?

19 A. Yes.

20 Q. If you look at the beginning of your notes, do
21 you see that Mr. Diepenbrock discussed DLL with you at
22 this meeting?

23 MR. STONE: Objection. Assumes facts not in
24 evidence.

25 JUDGE McGUIRE: Sustained.

1 MR. OLIVER: I'll withdraw the question,
2 Your Honor.

3 BY MR. OLIVER:

4 Q. Do you see about seven lines down the reference
5 "say DLL on clock receiving circuit"?

6 A. Well, actually I think it says "say,"
7 quote-unquote, "DLL" -- it could be "or" or an "as."
8 It's hard to tell -- "clock" and I think it's "recovery
9 circuit."

10 Q. Okay.

11 A. Well, I don't know if it's "recovery" or
12 "receiving." I'm not sure. This isn't the best copy.
13 It's hard to tell.

14 Q. I agree that it's difficult to read.

15 In any event, do you see the reference to DLL
16 there?

17 A. Yes.

18 Q. Does that refresh your recollection that you
19 and Mr. Diepenbrock discussed DLLs at this meeting?

20 A. Yes. Well, I mean, I don't have an
21 independent recollection, but it appears that that's
22 what we did.

23 Q. Okay. If I could ask you to locate the next
24 document in the top of the left-hand pile. It's
25 CX-2001.

1 CX-2001 is a copy of your notes of a meeting
2 with Mr. Diepenbrock on February 5, 1996; is that
3 right?

4 A. Yes. It looks like Tom Lee was there also.

5 Q. Okay. And if I could direct your attention to
6 the top of page 2 and the bottom of page 3, would it be
7 fair to say that you and Mr. Diepenbrock and Mr. Lee
8 discussed DLLs at this meeting?

9 A. Let me just take a look at this.

10 (Pause in the proceedings.)

11 Well, the top of the page says "DLL." The
12 bottom of page 3 says "DDL" and "DDL only" and "DDL
13 plus narrow bus and single device response." I'm not
14 sure what DDL is.

15 Q. That was my next question.

16 On page 3, immediately above that, do you see
17 that it reads "add claims saying delay-lock loop"?

18 A. Yes.

19 Q. Based on those references, does that refresh
20 your recollection that you and Mr. Diepenbrock and
21 Mr. Lee discussed the DLLs at this meeting?

22 A. Yes.

23 Q. Now, at either the January 24, 1996 meeting or
24 the February 5, 1996 meeting, did Mr. Diepenbrock tell
25 you anything with respect to any events within JEDEC

1 relating to DLLs?

2 A. I don't recall.

3 MR. OLIVER: Your Honor, if we could fill in
4 actually two boxes -- actually three boxes. I've
5 fallen behind.

6 JUDGE McGUIRE: Very good.

7 BY MR. OLIVER:

8 Q. Mr. Vincent, if you could locate the next
9 document at the top of the left-hand pile. This should
10 be CX-868.

11 A. Yes. I've had a chance to look at it.

12 Q. And this is an e-mail with the subject JEDEC
13 minutes from January interim meeting, date February 20,
14 1996, from crisp@jupiter (Richard Crisp) to a number of
15 individuals at Rambus.

16 Mr. Vincent, do you recall having seen CX-868
17 at any time before the end of June 1996?

18 A. No.

19 Q. If you could set that document aside, please.

20 Mr. Vincent, if you could locate the next
21 document in your left-hand pile. It has a number
22 CX-363.

23 A. Yes. I've had a chance to skim through it.

24 Q. Okay. For the record, CX-363 is a set of
25 slides. The first one is captioned Future SDRAM Clock

1 Issues, in the lower left-hand corner the date
2 January 31, 1996, lower right-hand corner reads
3 "Micron."

4 Mr. Vincent, do you recall having seen CX-363
5 at any time before the end of June 1996?

6 A. I don't recall.

7 Q. Okay. If you could set that document aside,
8 please.

9 At any time before the end of June 1996, do you
10 recall Mr. Crisp saying that Rambus should have a long,
11 hard look at a JEDEC presentation relating to clocks
12 and if there's a -- excuse me. Let me start that one
13 again.

14 At any time before the end of June 1996, do you
15 recall Mr. Crisp saying that Rambus should have a long,
16 hard look at Rambus' IP in connection with a JEDEC
17 presentation on clocks and if there's a problem Rambus
18 should tell JEDEC?

19 A. I don't recall.

20 Q. Before the end of June 1996, do you recall any
21 Rambus representative telling you that Rambus should
22 have a long, hard look at its IP in connection with a
23 JEDEC presentation on clocks and if there's a problem
24 they should tell JEDEC?

25 A. I don't recall.

1 MR. OLIVER: Your Honor, if we could fill in
2 the next two boxes, please.

3 BY MR. OLIVER:

4 Q. Mr. Vincent, if you could locate the next
5 document to the right-hand pile, which should be JX-31.

6 JX-31 is a set of minutes from the March 1996
7 JC-42.3 subcommittee meeting. I'd like to direct your
8 attention in particular to pages 61 to 65 with a focus
9 on page 64.

10 This is a presentation with the caption SDRAM
11 Pinout Mods Suggested, lower left-hand corner reads
12 "Desi Rhoden," lower right-hand corner March 1996.

13 A. Page 64?

14 Q. Page 61 through 65 is the presentation.

15 A. And particular interest?

16 Q. And particular interest on page 64.

17 A. 64. Okay.

18 Okay. I've had a chance to look through that.

19 Q. Do you recall having seen that presentation at
20 any time before the end of June 1996?

21 A. No.

22 Q. If I could ask you to turn, please, to pages 68
23 through 72 of the same document, with particular
24 interest at page 71.

25 A. Okay. I've had a chance to look at it.

1 Q. And for the record, this is a document with the
2 caption Future SDRAM, March 16, 1996,
3 Samsung Electronics.

4 Mr. Vincent, do you recall having seen this
5 presentation at any time before the end of June 1996?

6 A. No.

7 MR. OLIVER: Your Honor, if we could fill in
8 the next box, please.

9 BY MR. OLIVER:

10 Q. Mr. Vincent, if I could ask you to locate the
11 next document in the only remaining pile in front of
12 you. We are making progress.

13 This is CX-1494. It bears the caption at the
14 top United States Patent, Patent Number 5,513,327.

15 Mr. Vincent, do you recognize this to be a copy
16 of Rambus' '327 patent?

17 A. Yes.

18 Q. And did you become aware that this patent
19 issued in -- excuse me. Let me withdraw that
20 question.

21 In late April or early May 1996 did you become
22 aware that Rambus' '327 patent issued?

23 A. Yeah. I don't remember the exact date, but
24 yeah, there is a time lag usually until I find out, but
25 yes. I'm not -- I can't even say it was early May. It

1 may have been late May. It's hard for me to know
2 sitting up here because there is a time lag before I
3 would be informed.

4 MR. OLIVER: I'm sorry. Could we have just a
5 moment, please, Your Honor.

6 (Pause in the proceedings.)

7 THE WITNESS: Actually when I said early or
8 late May, I mean, I exactly don't know how long. It
9 can actually be quite a time lag between when the
10 patent is printed and when it's mailed to us. So I
11 can't remember if that's the exact date just looking at
12 the document.

13 BY MR. OLIVER:

14 Q. Well, in any event, we'll move on.

15 You were aware of the '327 patent at the
16 time -- or at approximately the time that it issued?
17 Would that be fair?

18 A. I don't recall. Because there can be a time
19 lag.

20 Q. Okay. Mr. Vincent, I'd like to step back a few
21 months in time now and focus on the time that you
22 became aware of the Federal Trade Commission's proposed
23 consent decree in the Dell matter.

24 Now, do you recall that you learned of that in
25 approximately December of 1995?

1 A. Without a document, that sounds right, but
2 without a document, I can't be entirely sure.

3 MR. OLIVER: May I approach, Your Honor?

4 JUDGE McGUIRE: Yes.

5 BY MR. OLIVER:

6 Q. Mr. Vincent, I've handed you a document marked
7 CX-1990.

8 Do you recognize this as a letter that you sent
9 to Mr. Diepenbrock in December 19, 1995?

10 A. Yes.

11 Q. And do you see that in the letter it states
12 that you are enclosing materials relating to the
13 proposed consent order regarding Dell Computer?

14 A. Yes.

15 Q. Does that refresh your recollection that you
16 learned of the Federal Trade Commission's proposed
17 consent order in the Dell matter in December of 1995?

18 A. Yeah, that seems right. Yes.

19 Q. Now, at the time that you became aware of the
20 Federal Trade Commission's proposed consent agreement
21 in the Dell matter, you advised Rambus representatives
22 that there was an equitable estoppel risk in
23 participating in JEDEC; is that right?

24 MR. STONE: Objection, Your Honor. This has
25 all been covered in the deposition testimony that has

1 been read.

2 MR. OLIVER: Your Honor, I'd like to probe this
3 in a little more detail. I need the question in order
4 to set up what Mr. Vincent did and did not understand
5 at the time.

6 MR. STONE: Well, the question of what he did
7 and did not understand and what happened at the
8 meeting was covered at some length in the prior
9 deposition testimony, so I think we're just going over
10 old ground.

11 MR. OLIVER: Your Honor, we now have a
12 demonstrative that outlines what information Mr. --

13 JUDGE McGUIRE: Make it very brief, Mr. Oliver.

14 MR. OLIVER: Thank you, Your Honor.

15 BY MR. OLIVER:

16 Q. So Mr. Vincent, at the time that you became
17 aware of the Federal Trade Commission's proposed
18 consent agreement in the Dell matter, you advised
19 Rambus representatives that there was an equitable
20 estoppel risk in participating in JEDEC; is that
21 right?

22 A. I don't know if that's exactly what it was.

23 Q. You advised Rambus representatives there was a
24 downside to participating in JEDEC; right?

25 A. I said, yeah, you had to look at the downside

1 risk and the upside potential.

2 Q. And that downside risk was related to equitable
3 estoppel, wasn't it?

4 A. It was related to -- by the way, I don't know
5 if it's necessarily December. It might have been
6 January. But it had to do with the -- that somebody
7 questioning and raising this as an issue. And raising
8 equitable estoppel as an issue.

9 Q. And again, just to make clear, at the time, as
10 we have explored this morning, you were not aware of
11 the EIA Legal Guides, the Townsend presentation, the
12 Townsend memos, the quad CAS story, 21-I manual, the
13 sign-in sheet within JEDEC; is that right?

14 MR. STONE: Objection, Your Honor. Misstates
15 the witness' prior testimony, which was that he doesn't
16 recall seeing those, not that he wasn't aware at that
17 point in time.

18 JUDGE McGUIRE: Sustained.

19 BY MR. OLIVER:

20 Q. Your Honor, at that time -- let me withdraw
21 that.

22 You don't recall that at the time that you gave
23 Rambus that advice being aware of the EIA Legal Guides,
24 the Townsend presentations, the tracking list, the
25 Townsend memos, the 21-I manual or the sign in sheet;

1 isn't that right?

2 A. I don't recall, that's right.

3 Q. And you also don't recall at the time you gave
4 that advice as to whether you were aware of any Rambus
5 e-mails, if any, discussing disclosures made within
6 JEDEC or any specific requests made by JEDEC
7 representatives of Rambus; isn't that right?

8 A. Boy, that was a long one. Can I --

9 Q. Okay. I'll break it up then.

10 You don't recall sitting here today, when
11 recalling the advice you gave Rambus representatives,
12 you don't recall being aware of any e-mails within
13 Rambus, if any, discussing disclosures made within
14 JEDEC; isn't that right?

15 A. I don't recall.

16 Q. You also don't recall whether you were aware of
17 any specific requests made of JEDEC representatives of
18 Rambus with respect to Rambus patents at the time that
19 you gave Rambus that advice; isn't that right?

20 A. That's right, I don't recall.

21 Q. You also don't recall whether you were aware of
22 any specific work going on within JEDEC at the time
23 that you gave Rambus that advice; isn't that right?

24 A. I don't recall specific -- I'm not sure what
25 you're asking. I'm confused by the question.

1 Q. You don't recall being aware of any specific
2 presentations made within JEDEC at the time that you
3 gave Rambus that advice; isn't that right?

4 A. That's right, I don't recall.

5 Q. And you also don't recall whether you were
6 aware of any e-mails within Rambus outlining the
7 relationship, if any, between the Rambus patents and
8 patent applications and ongoing work at JEDEC at the
9 time that you gave Rambus that advice; isn't that
10 right?

11 A. Yes, I don't recall.

12 Q. And yet you still concluded that there was a
13 risk to Rambus of participating in JEDEC; right?

14 MR. STONE: Objection. Argumentative. Asked
15 and answered.

16 JUDGE MCGUIRE: Sustained.

17 BY MR. OLIVER:

18 Q. You did so advise Rambus that there was a risk
19 to participating in JEDEC; right?

20 A. I talked about the downside -- balancing the
21 downside risk versus the upside potential. That was my
22 analysis. And the downside was that somebody would
23 raise this as an issue. That's my recollection.

24 MR. OLIVER: I have nothing further,
25 Your Honor.

1 JUDGE McGUIRE: Okay. Very good. It's
2 twenty-five to two. Why don't we break for an hour
3 today. Is that adequate?

4 MR. STONE: I think that's fine, Your Honor.

5 JUDGE McGUIRE: Let's reconvene then at 2:35.
6 Hearing in recess.

7 (Whereupon, at 1:36 p.m., a lunch recess was
8 taken.)

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1 Mr. Weber.

2 MR. WEBER: The total playing time of the
3 remaining tapes is about two and a half hours,
4 Your Honor.

5 JUDGE McGUIRE: Okay.

6 MR. WEBER: That's assuming that everything is
7 played.

8 JUDGE McGUIRE: All right.

9 MR. WEBER: May I approach, Your Honor?

10 JUDGE McGUIRE: Yes.

11 MR. WEBER: We've got copies of the
12 transcripts.

13 (Pause in the proceedings.)

14 MR. OLIVER: Your Honor, could we have just a
15 moment to get this up?

16 JUDGE McGUIRE: Go ahead.

17 MR. OLIVER: Thank you.

18 (Pause in the proceedings.)

19 MR. WEBER: While my colleague is getting set
20 up, we're going to be playing clips from three days of
21 testimony from Mr. Karp at his Micron deposition.

22 Volume 1 has been designated CX-2078. That is
23 dated April 9, 2001.

24 Volume 2, which is CX-2080, is April 10 of
25 2001.

1 And volume 3, which has been designated as
2 CX-2102, is August 7, 2001.

3 Now, even though they were three different
4 dates and we've got three different tapes, the page
5 numbers are all consecutive as if it was one
6 deposition.

7 JUDGE McGUIRE: All right.

8 MR. WEBER: And we're going to start with a
9 very short clip at the beginning of the first day,
10 which is page 7, lines 11 through 16.

11 JUDGE McGUIRE: I mean, is it important at this
12 point in time that we go back through with asking his
13 name and his address?

14 MR. WEBER: No. That's fine, Your Honor.

15 JUDGE McGUIRE: Isn't that already -- haven't
16 we already done that?

17 MR. WEBER: Yeah, we can skip that.

18 JUDGE McGUIRE: I mean, I just see that. If
19 there's other items like that that have already been
20 covered --

21 MR. WEBER: No. Actually we have agreed on
22 cutting back, so we've cut about 45 minutes between the
23 agreements between counsel.

24 Why don't we go to page 21, line 18 through
25 page 23, line 21, and then we'll also play page 24,

1 lines 9 through 22. There's no objection to these two
2 clips.

3 JUDGE McGUIRE: Okay.

4 (Whereupon, the videotape was played for the
5 record in open court.)

6 MR. WEBER: Next, Your Honor, we have three
7 short clips: page 25, line 12 through 18; page 28,
8 line 18 through page 29, line 6; and page 32, lines 5
9 through 19.

10 MR. STONE: And I object, Your Honor, to those,
11 at least the first two on the grounds there's no
12 foundation that this witness knows anything about the
13 architecture of the MDRAM product.

14 JUDGE McGUIRE: I will, if you want to comment
15 on that, Mr. Weber --

16 MR. WEBER: Yes, Your Honor.

17 The foundation was laid by Mr. Karp in his
18 prior answer where he says he was familiar with Mosys
19 and the Mosys license which was pending while he was at
20 Rambus. And I would also point out in an earlier
21 transcript Rambus offered a designation about
22 Mr. Karp's knowledge of the Mosys licensing agreement,
23 so we think it's important.

24 MR. STONE: And I have no dispute to him having
25 laid a foundation as to his knowledge about the Mosys

1 license, but the question that is going to come up
2 first is about the architecture of the product --

3 JUDGE McGUIRE: Sustained.

4 MR. WEBER: So does -- Your Honor's ruling I
5 take would go to the next two clips, so we'll then play
6 a clip which is 32, lines 5 through 19.

7 (Whereupon, the videotape was played for the
8 record in open court.)

9 MR. WEBER: Next we're going to skip a clip
10 that's cumulative and go to two clips starting page 36,
11 line 16 through page 37, line 19 and then the
12 following clip, page 38, line 2 through page 39,
13 line 13.

14 (Whereupon, the videotape was played for the
15 record in open court.)

16 MR. WEBER: Your Honor, we have a couple of
17 short clips and then we have a long clip and then we
18 actually have an objection towards the end of the third
19 clip.

20 So we're going to be reading from page 39,
21 line 16 to page 40, line 2; page 41, lines 1 through 6;
22 and page 41, line 20 through page 43, line 21, and then
23 we have an objection to part of the answer at lines 22
24 to 23 of that page, and that will be the end of these
25 clips.

1 So do you want us to go ahead and play up to
2 that point?

3 JUDGE McGUIRE: Go ahead.

4 MR. WEBER: And then you can hear the
5 question?

6 JUDGE McGUIRE: Okay.

7 MR. WEBER: Good.

8 (Whereupon, the videotape was played for the
9 record in open court.)

10 MR. WEBER: Your Honor, at this time we're
11 objecting to the remainder of Mr. Karp's answers as
12 being nonresponsive, lacking foundation and hearsay.

13 JUDGE McGUIRE: Sustained.

14 MR. WEBER: Then we can dispense with the rest
15 of the playing of that tape, and so we're moving ahead
16 to two tapes -- two excerpts, which are page 51,
17 line 12 through page 53, line 11 and page 62, line 18
18 through 63, line 21.

19 (Whereupon, the videotape was played for the
20 record in open court.)

21 MR. WEBER: Your Honor, the next three clips
22 will be from page 64, line 22 through 65, line 10,
23 continuing at page 65, line 14 to 66, line 21, and also
24 page 67, line 5 through page 70, line 18.

25 MR. STONE: Your Honor, and I have an

1 objection on page 66, lines 3 through 21 as
2 cumulative.

3 JUDGE McGUIRE: Okay.

4 MR. STONE: And it relates to the declaration
5 from the ITC case as to which I think we've heard
6 testimony in prior depositions.

7 JUDGE McGUIRE: So we'll stop the tape up to
8 the start of your opposition, Mr. Stone.

9 MR. STONE: Thank you.

10 MR. WEBER: Yeah, we can do that because it's
11 the second half. I think that will work. So we'll
12 stop it at 66 through line 2 I think.

13 JUDGE McGUIRE: Right.

14 MR. WEBER: Got it.

15 (Whereupon, the videotape was played for the
16 record in open court.)

17 MR. WEBER: That concludes page 65, line 14
18 through page 66, line 2.

19 And the next excerpt is page 67, line 5 through
20 page 70, line 18.

21 JUDGE McGUIRE: Wait a minute. I thought there
22 was opposition on page 66 starting at --

23 MR. WEBER: I think we deleted that, agreed to
24 delete that.

25 MR. STONE: Okay. Then if that's deleted, I

1 will withdraw my counter-designation on 67, lines 5
2 through 21, so we could delete that as well.

3 MR. WEBER: Okay. I don't know if we can
4 easily --

5 MR. STONE: If you can't delete it, play it.

6 MR. WEBER: That's okay. Whatever, we'll do
7 what we can.

8 JUDGE McGUIRE: Just fast-forward.

9 MR. WEBER: Whatever will be the quickest way.

10 (Whereupon, the videotape was played for the
11 record in open court.)

12 MR. WEBER: I just want to get in for the
13 record what we'll be reading in for the record
14 initially is page 67, line 25 through page 70, line 18.

15 (Whereupon, the videotape was played for the
16 record in open court.)

17 MR. WEBER: Okay. The next clips we'll be
18 playing are: page 71, line 10 through page 72,
19 line 23; also page 73, line 6 through page 78, line 13;
20 and page 85, line 13 to page 86, line 7.

21 (Whereupon, the videotape was played for the
22 record in open court.)

23 MR. WEBER: Your Honor, next we have three
24 clips at page 93, line 4 through 94, line 14; then
25 page 100, line 1 through 8; and 100, line 11 through

1 101, line 22.

2 We inadvertently left off a question on the
3 tape when we get to page 100. I could either read it
4 in or we could just play the clip, because I don't
5 think the -- he's basically given an answer and there
6 is a follow-up question.

7 JUDGE MCGUIRE: You can read it in.

8 MR. WEBER: Okay. So why don't we just do
9 page 93, line 4 through 94, line 14 first, and then
10 I'll read that question in.

11 (Whereupon, the videotape was played for the
12 record in open court.)

13 MR. WEBER: Let me read in the question that
14 was left out from the designation. It's at page 99,
15 lines 20 to 23:

16 "QUESTION: Now, from members who aren't making
17 presentations you don't have any way of knowing one way
18 or the other what their intellectual property position
19 is without disclosure; right?"

20 Then there was an objection, and now we're
21 going to the tape which picks up at page 100, lines 1
22 through 8, and we'll also continue with page 100,
23 line 11 through 101, line 22.

24 (Whereupon, the videotape was played for the
25 record in open court.)

1 MR. WEBER: The next excerpt is one in which we
2 have an objection. It was from page 103, line 5
3 through 106, line 1.

4 Our objection is to a portion of an answer at
5 the top of 105 as lacking foundation and hearsay, so I
6 don't know if Your Honor wants to rule on the objection
7 before we go to the tape. It's page 105, lines 1
8 through 11, the answer to the question: "And why is
9 that?"

10 JUDGE MCGUIRE: It's hard when the question is:
11 "And why is that?" I mean, do we have to go back and
12 refer to the prior question to get context?

13 MR. WEBER: Well, what we could do if it would
14 be easier is to play the tape up to the bottom of 104.

15 JUDGE MCGUIRE: Why don't we do that.

16 MR. WEBER: Okay.

17 (Whereupon, the videotape was played for the
18 record in open court.)

19 MR. WEBER: And Your Honor, the question and
20 answer we object to. "And why is that?" The answer
21 goes into hearsay in terms of Mr. Karp's view of what
22 other people thought, not his own view.

23 JUDGE MCGUIRE: Mr. Stone, any response?

24 MR. STONE: It's not offered for the truth,
25 simply to explain his state of mind as it impacts his

1 understanding of what the rules required, not from what
2 he heard from others or didn't hear from others.

3 JUDGE McGUIRE: Then I'll overrule the
4 objection.

5 MR. WEBER: Then I just want to make sure that
6 complaint counsel has the correct understanding that
7 this answer cannot be cited for the truth of the
8 matter, only for Mr. Karp's state of mind.

9 JUDGE McGUIRE: That is correct; right,
10 Mr. Stone?

11 MR. STONE: Yes.

12 MR. WEBER: We'll continue then with the tape
13 and we'll continue from page 105, line 1 through the
14 end of the excerpt, which is page 106, line 1.

15 (Whereupon, the videotape was played for the
16 record in open court.)

17 MR. WEBER: Your Honor, we're up to the only --
18 I believe the only clip today that's been designated
19 in camera by Rambus, and so we would propose that what
20 we did the other day is just have Your Honor read it.
21 It's only a page or so.

22 This would be page 106, line 11 through
23 page 107, line 23.

24 JUDGE McGUIRE: Okay. I'm sorry. 106, page --
25 line 11 --

1 MR. WEBER: 106, line 11 through 107, line 23.

2 JUDGE McGUIRE: Okay. Let me just read it.

3 (Pause in the proceedings.)

4 Okay.

5 MR. WEBER: Next we have three short clips
6 which are at page 108, line 2 through 11; 109, lines 15
7 through 22; and page 116, line 11 through page 117,
8 line 6.

9 (Whereupon, the videotape was played for the
10 record in open court.)

11 MR. WEBER: Next, Your Honor, we have a couple
12 of clips. One was made an objection the other day and
13 Your Honor ruled on it, so we're not going to take the
14 time to make it again. It goes to -- it was a scope
15 objection, but we're just going to play the clips.

16 It's page 118, line 19 to page 120, line 1 and
17 also page 121, line 20 to page 123, line 8.

18 (Whereupon, the videotape was played for the
19 record in open court.)

20 MR. WEBER: Next we have two clips which will
21 be at page 123, line 22 to page 125, line 9 and
22 page 125, line 24 to page 127, line 9.

23 (Whereupon, the videotape was played for the
24 record in open court.)

25 MR. WEBER: Next we have two excerpts which are

1 page 132, line 12 to page 134, line 21 and page 137,
2 line 18 to 138, line 8.

3 MR. STONE: Your Honor, we've objected to some
4 of this on grounds it's simply reading to the witness
5 from his prior deposition in the ITC matter, which
6 you've held was not admissible, so I think this is an
7 effort either because it is hearsay by reading from a
8 prior statement, which is otherwise not admissible, or
9 it's an inappropriate effort in light of the court's
10 ruling previously to get around the ruling on the ITC.

11 And that applies to page 132, line 12 through
12 134, line 21. And if the objections there were
13 sustained, we would then withdraw 137, line 18 through
14 138, line 8.

15 JUDGE MCGUIRE: Let's go ahead and we'll talk
16 about this now.

17 Mr. Weber, any response?

18 MR. WEBER: Your Honor, I recall when
19 Your Honor issued the ruling, Your Honor said it was
20 appropriate, however, to confront Mr. Karp if he were
21 being questioned, for example, as a live witness with
22 his prior testimony. That's all that's being done here
23 at the deposition. He's being asked whether or not it
24 refreshes and whether or not the transcript is in fact
25 accurate.

1 JUDGE McGUIRE: I forget what I said in that
2 order. I think we have two or three issues involved in
3 that order and I held that we would not entertain the
4 ITC deposition? Is that what --

5 MR. STONE: Yes.

6 MR. WEBER: As a party admission, Your Honor.
7 It was not a party admission. However, this transcript
8 Your Honor ruled was a party admission.

9 MR. STONE: Your Honor, you can't make
10 admissible something that is otherwise not admissible
11 by asking about it later. There's no information to
12 impeach him. I think your ruling was it could be used
13 to impeach. Here it's not being used to impeach nor is
14 it being --

15 JUDGE McGUIRE: I'm going to uphold the
16 objection. Sustained.

17 MR. WEBER: Then we'll skip the next two
18 excerpts and we'll go to page -- next -- I think this
19 may be the last one on this -- well, I'm not sure.
20 We've got something that's missing in the next one, so
21 we'll go with two, page 139, line 4 through page 142,
22 line 21.

23 (Whereupon, the videotape was played for the
24 record in open court.)

25 MR. WEBER: Now we've got one more clip in the

1 first day of Mr. Karp's Micron deposition, but we have
2 a little glitch and I have to read in a couple
3 questions and answers that weren't picked up in the
4 clip.

5 JUDGE McGUIRE: All right.

6 MR. WEBER: We're at page 153, line 18, and I'm
7 going to read two questions and answers that take us to
8 page 154, line 1, and then we'll go to the clip.

9 "QUESTION: Mr. Karp, at the beginning of the
10 deposition this morning, you indicated that you are
11 presently working as a consultant to Rambus; is that
12 right?

13 "ANSWER: Correct.

14 "QUESTION: You also said that you were doing
15 some work for another company?

16 "ANSWER: I've been -- I have been engaged by
17 the Burns Doane law firm to work on the case between
18 Micron Electronics and Smart Modular Technologies."

19 Now we go to the last clip from volume 1, which
20 will be page 154, line 9 to page 155, line 10.

21 (Whereupon, the videotape was played for the
22 record in open court.)

23 MR. WEBER: Your Honor, that concludes --
24 whoops.

25 (Whereupon, the videotape was played for the

1 record in open court.)

2 MR. WEBER: Your Honor, that concludes the
3 first day, just so you get a sense of where we are.
4 The second day of the tape is about a half hour and the
5 third day is about 50 minutes, so I don't know if you
6 want to take a break now.

7 JUDGE McGUIRE: Do you want to take a break,
8 just a short break, a five-minute break?

9 MR. WEBER: Sure.

10 (Recess)

11 JUDGE McGUIRE: Mr. Weber, you may proceed.

12 MR. WEBER: Thank you, Your Honor.

13 We're going to go to volume 2. This was again
14 Mr. Karp's Micron deposition. It was April 10, 2001.

15 We're going to play three clips. The first
16 clip will be page 173, line 18 to page 176, line 23,
17 and then we'll also continue with page 179, line 5 to
18 page 180, line 1 and page 181, line 1 through line 7 of
19 page 181.

20 (Pause in the proceedings.)

21 Technical problem with the audio, Your Honor.

22 (Pause in the proceedings.)

23 (Whereupon, the videotape was played for the
24 record in open court.)

25 MR. WEBER: Your Honor, the next clips are a

1 series of short clips. We will be playing from
2 page 184, line 16 through page 185, line 3; page 190,
3 line 15 through 16; page 190, line 23 to page 191,
4 line 1; page 191, line 15 through line 21; and then
5 page 193, line 15 to page 196, line 17.

6 (Whereupon, the videotape was played for the
7 record in open court.)

8 MR. WEBER: The next excerpt, Your Honor, is a
9 counter-designation by respondent and we have a series
10 of objections to it. This is at page 197, line 13
11 through page 201, line 14.

12 MR. STONE: And I think I can simplify the
13 objections, Your Honor, because we will withdraw
14 beginning at page 198, line 1 through 201, line 14 and
15 ask only -- if complaint counsel object, we'd like to
16 be heard -- ask only that we play page 197, line 13
17 through 197, line 25.

18 JUDGE McGUIRE: All right. Just so I'm clear,
19 your opposition is to page 197, line 13?

20 MR. STONE: No. I'm not opposing -- it's our
21 designation, so that's all I want to offer and I will
22 withdraw the offer of the remaining testimony.

23 JUDGE McGUIRE: Oh, okay.

24 MR. WEBER: Then the only thing we have an
25 objection to is his answer at lines 23 through 25 of

1 page 197 which we view as nonresponsive to the
2 question.

3 MR. STONE: And I think it is responsive,
4 Your Honor.

5 JUDGE McGUIRE: Let me take a look at it real
6 quick.

7 MR. STONE: Sure.

8 (Pause in the proceedings.)

9 JUDGE McGUIRE: I will hear that last comment,
10 so objection overruled.

11 MR. STONE: Thank you, Your Honor.

12 MR. WEBER: Therefore, if I understand
13 Mr. Stone, we're going to only play page 197, page 13
14 through 25.

15 MR. STONE: Yes, for these
16 counter-designations.

17 MR. WEBER: Okay. Fine. No problem.

18 (Whereupon, the videotape was played for the
19 record in open court.)

20 MR. WEBER: Your Honor, I think earlier we
21 agreed with counsel that another series of
22 designations have been withdrawn, so that's going to
23 move us forward to page 212, I believe is the next
24 excerpt.

25 MR. STONE: I believe that's right.

1 MR. WEBER: So what I'd like to do then is to
2 have -- to play the following pages and lines:
3 page 212, line 17 through page 213, line 5; page 217,
4 line 21 to page 218, line 12; page 222, line 24 to
5 page 223, line 20; and page 224, line 6 through line 21
6 of page 224.

7 (Whereupon, the videotape was played for the
8 record in open court.)

9 MR. WEBER: Your Honor, the next clip will be
10 page 227, line 9 through page 229, line 22.

11 (Whereupon, the videotape was played for the
12 record in open court.)

13 MR. WEBER: Your Honor, I think we have one
14 more series of clips and then we can wrap up with day
15 two of the Micron deposition.

16 The final series of clips will be page 124,
17 line 4 through page -- I'm sorry. Let me start
18 again -- page 241, line 4 to page 242, line 5 and then
19 page 243, lines 21 through 24; page 244, lines 10
20 through 16; and page 248, line 16 through page 250,
21 line 20.

22 (Whereupon, the videotape was played for the
23 record in open court.)

24 MR. WEBER: Your Honor, we're ready to proceed
25 to the third of this trilogy, which is the August 7,

1 2001 volume 3 from Mr. Karp's Micron deposition.

2 Again, I think we have about 50 minutes.

3 JUDGE McGUIRE: I'm sorry. How long?

4 MR. WEBER: 50.

5 JUDGE McGUIRE: I was hoping you'd said 15. I
6 didn't want to fool myself, so...

7 MR. WEBER: I'm sorry, Your Honor. I've got my
8 fingers crossed too soon here.

9 We're going to combine the first four clips to
10 save time. These will be from pages 273, lines 13 to
11 23; page 285, line 11 to 25; page 286, lines 10 through
12 16; and page 289, line 15 to page 290, line 5.

13 (Whereupon, the videotape was played for the
14 record in open court.)

15 MR. WEBER: Your Honor, we'll skip ahead to two
16 excerpts at page 301, lines 5 through 10 and page 304,
17 line 11 to page 306, line 11.

18 (Whereupon, the videotape was played for the
19 record in open court.)

20 MR. WEBER: Next, Your Honor, we have a series
21 of clips that will be at page 306, line 21 -- 24 --
22 excuse me -- page 306, line 24 to page 307, line 21,
23 followed by 309, line 11 through 15 and page 310,
24 lines 7 through 17.

25 (Whereupon, the videotape was played for the

1 record in open court.)

2 MR. WEBER: Your Honor, the next excerpt is
3 respondent's counter-designation. It's at page --
4 okay. I'm not sure we played till the end of the last
5 tape. Can you just make sure?

6 Okay. Sorry for moving too quickly there.

7 Page 314, line 17 through page 316, line 9 is
8 respondent's counter-designation, and we are objecting
9 primarily because it's beyond the scope of anything
10 that we've designated. He's being asked some questions
11 to analogize the TI-Samsung equitable estoppel concerns
12 with Rambus, so we just don't think this designation
13 is --

14 JUDGE MCGUIRE: Now, that's starting on
15 page 314 at line 17 and going through where?

16 MR. WEBER: The questions continue until the
17 top of 316, line 9. It's basically the same objection
18 to all of them.

19 JUDGE MCGUIRE: Mr. Stone, do you want to be
20 heard?

21 MR. STONE: Your Honor, I think this goes
22 directly in response to the testimony that has been
23 elicited by complaint counsel from Mr. Karp with
24 respect to the TI issue on which we heard a lot of
25 testimony today and on prior occasions as well as with

1 respect to the Wang issue as to which the witness had
2 also been examined.

3 This puts in context -- they tried through the
4 prior testimony to suggest a relationship between TI
5 and Rambus, and this asks the witness directly whether
6 during the time he was a Samsung representative at
7 JEDEC whether he felt Rambus' conduct was analogous to
8 the conduct of TI or Wang about which he had been
9 asked.

10 I think it's directly responsive to that, and
11 the only pertinence of the TI and Wang testimony was to
12 use it to compare or contrast it with Rambus.

13 JUDGE McGUIRE: I'll overrule the objection and
14 hear the question.

15 MR. WEBER: Okay. We will then play the tape
16 at page 314, line 17 through page 316, line 9.

17 (Whereupon, the videotape was played for the
18 record in open court.)

19 JUDGE McGUIRE: All right. Stop the tape right
20 there. I'm going to -- on the line where it says "and
21 so did everyone else," that's not going to come in.
22 That's stricken.

23 MR. STONE: I understand.

24 JUDGE McGUIRE: All right. You can continue.

25 MR. WEBER: Just so we've got it clear, I'm

1 trying to pick up what line you're striking,
2 Your Honor.

3 JUDGE McGUIRE: I'm sorry. That's page 315,
4 line 6 through 7 where it's a portion of line 7.

5 MR. WEBER: Okay. The "and so did everybody
6 else" is stricken?

7 JUDGE McGUIRE: "And so did everyone else" is
8 stricken.

9 MR. WEBER: Should we continue with the tape?

10 JUDGE McGUIRE: Yes. Go ahead and complete.

11 (Whereupon, the videotape was played for the
12 record in open court.)

13 JUDGE McGUIRE: All right. Stop it right there
14 again.

15 Again I'm going to strike from line 20,
16 starting with the word "and" where it goes "and the
17 late open application in Europe was I believe most
18 people were aware of," I want to strike line 20
19 starting with "and" down through line 25.

20 You may continue from that point.

21 (Whereupon, the videotape was played for the
22 record in open court.)

23 MR. WEBER: The next designation is again one
24 of respondent's counter-designations. We have several
25 objections to it. It's page 318, line 5 through 25.

1 You can see the question at lines 5 through 10 and in
2 fact the Rambus attorney there objected to this.

3 Our objections are it's beyond the scope of
4 what we've designated, it lacks foundation, it asks a
5 hypothetical question, and in fact Mr. Karp's answer is
6 nonresponsive because the question relates specifically
7 to the '703 patent and nothing in his answer relates to
8 the '703 patent.

9 JUDGE McGUIRE: What portion is it that you're
10 opposing the question and --

11 MR. WEBER: The entire excerpt.

12 JUDGE McGUIRE: No. That's what I'm asking.
13 What page does that go to?

14 MR. WEBER: We're on page 318, lines 5 through
15 25, so it's just one question and one answer.

16 JUDGE McGUIRE: Mr. Stone, do you want to
17 respond?

18 MR. STONE: Yes, Your Honor. This goes
19 directly to the issues as to document destruction and
20 complaint counsel's adverse inference as to when there
21 was contemplation of litigation at Rambus.

22 The question as framed is not hypothetical. I
23 certainly recognize the lawyer at the deposition said
24 it was hypothetical, but it's not.

25 It simply says, "Did you hear discussions or

1 explanations?" And then the witness' answer I think
2 makes clear as to when it was that he first
3 contemplated litigation in the context of any JEDEC
4 issues coming up, and that goes directly to an issue as
5 to whether at the time he put the document retention
6 program in place he had any contemplation of litigation
7 that would be impacted by the document retention
8 program. I think it responds to the earlier testimony
9 of that.

10 MR. WEBER: Your Honor, I'd just like to note
11 for the record, I'm looking hard, I can't find anything
12 in the question or the answer about document retention
13 policy.

14 MR. STONE: Your Honor, and I agree with
15 Mr. Weber. That's not -- doesn't mean it's not very
16 responsive.

17 Complaint counsel have argued their whole
18 inference part of this case on document destruction or
19 document retention based on when someone at Rambus
20 contemplated litigation being filed, so this is
21 directly relevant to that. And that's the basis on
22 which they've asserted there's an adverse inference to
23 be drawn here.

24 JUDGE McGUIRE: I'm going to I think sustain
25 the objection.

1 MR. STONE: May we make an offer on this so
2 it's part of the record?

3 JUDGE McGUIRE: Yes. Go ahead.

4 MR. STONE: If the testimony -- I just want to
5 make an offer that if this testimony had been
6 permitted, the question asked would have been the
7 following: After you joined Rambus and became Rambus'
8 vice president of intellectual property, did you hear
9 any discussions or explanations as to why Rambus had
10 earlier disclosed the '703 patent when it issued but
11 refrained from disclosing other Rambus patents when
12 they issued?

13 And the answer would be: Let me try to answer
14 this for you. Let's take the time frame from when I
15 joined Rambus before any litigation started, so we're
16 talking the end of 1997 basically to the end of 1999.
17 The first litigation I believe was filed in January of
18 2000. During that whole time frame, I don't recall the
19 word "JEDEC" ever even coming up in a conversation.
20 The first time that I even became aware of any
21 potential issues surrounding JEDEC was when Hitachi
22 filed their counterclaims in the suit that Rambus filed
23 against them. That's the first time the word "JEDEC"
24 even popped into any conversation.

25 And that would be our proffer as to what

1 Mr. Karp's testimony would be.

2 JUDGE McGUIRE: Okay. Noted.

3 MR. STONE: Thank you, Your Honor.

4 MR. WEBER: Your Honor, moving ahead, we have
5 three clips. I don't think there are objections on
6 these, so hopefully it will go smoothly.

7 We're looking at page -- for the first one
8 page 320, line 13 through page 321, line 25 and then
9 page 324, lines 2 through 8 and page 325, line 6
10 through page 326, line 15.

11 (Whereupon, the videotape was played for the
12 record in open court.)

13 MR. WEBER: Next we have a series of clips that
14 will be from page 328, line 11 to 329, line 5; 337,
15 line 11 to 338, line 7; 342 at lines 5 through 24; 343,
16 line 3 to 345, line 13. And then we'll play some more
17 after that.

18 (Whereupon, the videotape was played for the
19 record in open court.)

20 MR. WEBER: Next we have a series of short
21 clips. This will be page 346, lines 6 through 10; 347,
22 line 18 through 348, line 6; 351, lines 8 through 15;
23 page 352, lines 3 through 18; and finally, page 354,
24 lines 16 through 22.

25 (Whereupon, the videotape was played for the

1 record in open court.)

2 MR. WEBER: Next we have a couple of clips that
3 will be page 356, line 23 to page 358, line 9 and then
4 page 358, lines 10 through 23.

5 (Whereupon, the videotape was played for the
6 record in open court.)

7 MR. WEBER: Your Honor, the next excerpts we
8 have are pages 360, line 11 to page 361, line 8 and
9 then also page 361, line 19 to page 362, line 18,
10 followed by page 366, line 18 to page 367, line 19.

11 (Whereupon, the videotape was played for the
12 record in open court.)

13 MR. WEBER: Next we have a long clip which will
14 be page 369, line 3 to page 372, line 12.

15 MR. STONE: Your Honor, I would just note and
16 maybe we could confer with counsel afterwards that what
17 was just played on the video, the reference of the
18 transcript to page 367, line 1, where the transcript
19 says "five minutes," I at least heard it on the video
20 to be "about 15 minutes," and maybe if counsel will at
21 some point listen to that again and see if we could
22 agree that maybe the transcript here needs to be
23 corrected.

24 MR. WEBER: Your Honor, I would stipulate for
25 purposes of this proceeding I heard "15 minutes," too,

1 so I'd be willing to stipulate to that right now.

2 MR. STONE: Okay.

3 JUDGE McGUIRE: Okay. Noted.

4 MR. WEBER: Now we continue with the next
5 excerpt, which is page 369, lines 3 through page 372,
6 line 12.

7 (Whereupon, the videotape was played for the
8 record in open court.)

9 MR. WEBER: Next we have two excerpts that's
10 page 373, lines 5 through 9 and page 378, line 6 to
11 page 379, line 11.

12 (Whereupon, the videotape was played for the
13 record in open court.)

14 MR. WEBER: Next we have a series of clips. We
15 will be playing page 385, lines 18 to page 386,
16 line 17, and then we'll jump ahead to page 419, lines 3
17 through 23, followed by page 420, line 21 to 422,
18 line 18 and also page 429, lines 2 through 20.

19 (Whereupon, the videotape was played for the
20 record in open court.)

21 MR. WEBER: Next we'll play a couple of short
22 excerpts. These are respondent's counter-designations,
23 page 430, lines 13 through 22 and also page 432,
24 lines 14 through 22.

25 (Whereupon, the videotape was played for the

1 record in open court.)

2 MR. WEBER: Moving along in this series of
3 short designations here, we will continue at page 441,
4 line 11 to 442, line 4; then 443, lines 10 through 13;
5 445, line 6 to 447, line 17; 474, lines 2 through 6;
6 475, lines 6 through 8; and 475, lines 11 through 21,
7 which will take us very close to the end.

8 (Whereupon, the videotape was played for the
9 record in open court.)

10 MR. WEBER: Your Honor, we're down to the last
11 three clips. They're all very short. There is an
12 objection to the last one. I think it affects the next
13 to last one, so maybe we can play page 485, line 19 to
14 486, line 2, and then we might need some guidance
15 from --

16 MR. STONE: I'm going to withdraw that. This
17 is the 5:35 exception to the objection rule.

18 MR. WEBER: Then I think we can play all three
19 because they've made a counter-designation, so we'll
20 just play all three.

21 So we'll page 485 line 19 to page 486, line 2;
22 page 486, line 20 to 487, line 1; finally, page 490,
23 lines 10 to 13. And that will be it.

24 JUDGE McGUIRE: Okay.

25 (Whereupon, the videotape was played for the

1 record in open court.)

2 MR. WEBER: That concludes our reading in of
3 the designations of Mr. Karp, Your Honor.

4 JUDGE McGUIRE: All right. Thank you,
5 Mr. Weber.

6 JUDGE McGUIRE: Mr. Oliver, does that conclude
7 the presentation of the case in chief?

8 MR. OLIVER: Your Honor, I do have a few
9 housekeeping matters. Basically, though, that
10 concludes the case in chief with the exception of the
11 designations of deposition testimony that we will be
12 submitting in written form.

13 JUDGE McGUIRE: Okay.

14 MR. OLIVER: And we're going to be working with
15 respondents on that and we'll have those presented by
16 July 9, 10 or 11.

17 JUDGE McGUIRE: All right.

18 MR. OLIVER: If I could just take care of a
19 handful of housekeeping matters.

20 First of all, with respect to the
21 demonstrative from this morning, Mr. Vincent's
22 demonstrative, if we could have a DX number and note
23 that for the record, we can then attach that number
24 later. But I would like the record to reflect what
25 the DX number will be. Unfortunately I have lost

1 track.

2 JUDGE McGUIRE: I have, too.

3 Does anyone have track of that?

4 MR. STONE: We believe it's DX-250, Your Honor.

5 JUDGE McGUIRE: That sounds good.

6 THE REPORTER: It is.

7 JUDGE McGUIRE: All right. DX-250. Let's have
8 that marked at this time.

9 (DX Exhibit Number 250 was marked for
10 identification.)

11 MR. OLIVER: We will attach that number to that
12 demonstrative then.

13 JUDGE McGUIRE: All right.

14 MR. OLIVER: And then Your Honor, with respect
15 to the demonstratives that we used during our opening,
16 I believe that we marked those as DX-5, but there are
17 many pages and I've noted since then we've been marking
18 each page individually. What we have done is we've
19 prepared a set of those labeled DX-5 with specific page
20 numbers, and if you'd like to make the record clear, we
21 can substitute that for the earlier one.

22 JUDGE McGUIRE: That's fine.

23 MR. OLIVER: Okay. And then also, Your Honor,
24 this weekend when we were reviewing the DX numbers we
25 noted that the demonstratives that we used with

1 Mr. Rhoden were not marked and we will have to go back
2 and print those out and mark those.

3 JUDGE McGUIRE: Okay.

4 MR. OLIVER: I would propose to introduce those
5 when we reconvene.

6 Your Honor, there are four exhibits that I
7 understand were used with Professor McAfee that we
8 would like to offer into evidence if we could, please.

9 The first is CX-2558.

10 MR. STONE: I have no objection to the exhibit,
11 Your Honor.

12 JUDGE McGUIRE: Entered.

13 (CX Exhibit Number 2558 was admitted into
14 evidence.)

15 MR. OLIVER: Second is CX-2561.

16 MR. STONE: No objection.

17 JUDGE McGUIRE: Entered.

18 (CX Exhibit Number 2561 was admitted into
19 evidence.)

20 MR. OLIVER: A third, Your Honor, is a document
21 that was produced to us not long ago during the course
22 of the trial. It was not included on our exhibit list
23 as a result of that. I believe it was -- that
24 Mr. Royall attempted to introduce it, but he used a
25 number that had already been used, and so we propose to

1 use CX-3111.

2 This is a document bearing Bates number
3 RF 0203604. It's a single-page document with Rambus
4 letterhead dated February 9, 2001, the letter addressed
5 to Mr. Harald Eggers of Infineon Technologies, signed
6 by Mr. Geoff Tate.

7 MR. STONE: I think that -- it's already in.
8 We don't object to the correction of the number.
9 Whatever the prior exhibit number, it should be
10 corrected to this number.

11 JUDGE McGUIRE: All right. Noted.

12 (CX Exhibit Number 3111 was admitted into
13 evidence.)

14 MR. OLIVER: Your Honor, I have one additional
15 document, a similar situation. This is a document that
16 Mr. Royall attempted to offer as CX-3093. We propose
17 instead to use the number CX-3112.

18 This is a document with Bates numbers
19 RF 0203605 through RF 0203606. It's a letter on
20 Infineon letterhead addressed to Mr. Geoff Tate of
21 Rambus from Harald, apparently Harald Eggers of
22 Infineon, with a date 2001-2-9. I can't tell if it's a
23 European date or an American date.

24 MR. STONE: It's February.

25 MR. OLIVER: February. Okay. So that would be

1 February 9, 2001.

2 MR. STONE: And the last two documents when
3 they were previously offered I think should still
4 continue to receive the in camera designation that they
5 were afforded provisionally pending our filing a
6 motion.

7 JUDGE McGUIRE: So noted. And entered.

8 MR. STONE: It's already entered.

9 JUDGE McGUIRE: All right.

10 (CX Exhibit Number 3112 was admitted into
11 evidence.)

12 MR. OLIVER: Next, Your Honor, we simply wanted
13 to proffer the expert reports of Professor McAfee,
14 Mr. Nussbaum and Professor Jacob for purposes not to be
15 admitted but simply to include them as part of the
16 record. I don't know what the procedure would be. We
17 have copies here if that would help or we can take that
18 up.

19 JUDGE McGUIRE: Well, that came up the other
20 day. I believe counsel was going to -- I know I'd
21 issued an earlier order where expert reports could not
22 be entered to the record, and then I think your
23 colleague wanted at least the expert report of -- I
24 can't think of the name right now.

25 MR. STONE: Professor McAfee.

1 JUDGE McGUIRE: Yeah -- Professor McAfee to be
2 offered as a DX exhibit, and I believe there was
3 opposition by I think respondent, and it was the our
4 impression that counsel may confer on this point to
5 the extent they may have any agreement, and if not,
6 I'm sure we'll hear something at this time from
7 Mr. Stone.

8 MR. STONE: I think what Mr. Oliver is
9 proposing is to simply proffer them so that they're
10 part of the record.

11 JUDGE McGUIRE: Just so you can include them in
12 the record, right.

13 MR. STONE: And I think all those reports
14 already have CX numbers, so I think all we need to do
15 is indicate for the record that those three exhibits,
16 they have been proffered subject to Your Honor's
17 ruling.

18 JUDGE McGUIRE: All right. So noted.

19 MR. OLIVER: And then next, Your Honor, I
20 simply wanted to ensure that the record was clear that
21 with respect to the deposition testimony of
22 Mr. Reese Brown that you had of course ruled that
23 certain of that testimony would not be admitted, and in
24 light of that ruling, we withdrew the remaining
25 portions, but again, we did want to ensure that the

1 portion that was the subject of your ruling would be
2 again proffered and thereby included as part of the
3 record.

4 JUDGE McGUIRE: Okay. Noted also.

5 MR. OLIVER: Okay. And then I have one final
6 item. I'd like to consult briefly with respondent if I
7 could.

8 JUDGE McGUIRE: Go ahead.

9 (Pause in the proceedings.)

10 MR. OLIVER: Your Honor, finally, I wanted to
11 offer to you a document that we have described as an
12 annotated exhibit list, and we created this in response
13 to a concern that you raised actually before the start
14 of trial asking us not to simply dump lots of documents
15 or lots of exhibits on you.

16 And so we have done something that has been
17 done in some previous cases here, which is to try to
18 organize many of the documents that have been admitted
19 into evidence by subject, explaining their relevance
20 and provide some quotations from the documents and
21 could provide you with some guidance as to how these
22 documents are relevant. I should emphasize that this
23 consists only of documents that have been admitted into
24 evidence, not all of them but most of them.

25 And we would propose this not as substantive

1 evidence but simply as a guide to you.

2 JUDGE McGUIRE: All right. That would be fine.

3 Mr. Stone, any objection?

4 MR. STONE: I do, Your Honor. It seems to me
5 this is a brief in the nature of argument and should be
6 treated in accordance with however -- whatever order
7 you issue with respect to posttrial briefing. I don't
8 think it's appropriate or necessary at the end of their
9 case.

10 I do think how we treat exhibits and how we
11 describe them for Your Honor in a helpful way is
12 something we do need to discuss or I know you've been
13 contemplating issuing an order on, but I don't think at
14 this time it's appropriate for them to sort of jump the
15 gun on argument.

16 JUDGE McGUIRE: The thing that concerns me, the
17 court would be very appreciative of an index or
18 something at least with respect to maybe topic. What
19 I'm concerned about is the commentary apparently that's
20 included here that describes how it's relevant, so at
21 this time I'm not going to, you know, have that
22 entered, but perhaps at the appropriate time the two
23 sides could confer and maybe come up with a joint
24 exhibit that would do the same thing and would help the
25 court to at least access these documents without so

1 much describing any aspect of how they might be helpful
2 to the court.

3 MR. STONE: I agree with that. And I know
4 Your Honor had told us a couple weeks ago that at some
5 point you would issue a post-hearing --

6 JUDGE MCGUIRE: I'm going to try to do that
7 here in the next ten days.

8 MR. STONE: And I think, you know, one thing
9 you might consider in that regard is giving us
10 parameters to some extent of what would be most helpful
11 to you, and we can certainly meet and confer with
12 complaint counsel and figure out how we can best
13 respond.

14 JUDGE MCGUIRE: I think that's going to be in
15 all of our best interests and it's going to help the
16 parties when they get ready for post-hearing briefs as
17 well. And let's talk about that at the end.

18 I know I intend to issue this order. Do the
19 parties again at this point -- perhaps you'll have
20 some idea by the time this hearing adjourns at the end
21 of, say, July. Do the parties have some idea as to
22 how much time, you know, that they would need, not
23 want but need, to at least file their opening rounds
24 of briefs, which will be filed concurrently, by the
25 way?

1 It's just so I can help -- so I can be thinking
2 about some of the aspects of this order that I want to
3 issue. Now, again, how much time you need. I'm not
4 going to give you the time you want because I don't
5 have it to offer.

6 MR. OLIVER: Your Honor, we had thought in
7 order to do a quality job with briefs and findings, we
8 had thought in terms of four weeks for the opening
9 round and two weeks for rebuttal.

10 JUDGE MCGUIRE: Okay.

11 MR. STONE: And what we had thought, we think
12 four weeks will work for the opening. We think we
13 should have three weeks on rebuttal because we do think
14 the rebuttal or reply briefs will be fairly extensive,
15 so I think we're only off by a week from complaint
16 counsel.

17 JUDGE MCGUIRE: Then I'll keep that in mind.
18 And again, and this will come up again, but as I think
19 I said earlier, I know you all have put a whole lot of
20 time in this case, a lot of effort, and it's all going
21 to come down to obviously at the ALJ stage to your
22 post-hearing briefs, so it's going to help each side to
23 put in the quality work that I've come to expect from
24 both sides and you clearly have done up until this
25 point, so you know, I'll keep all those time frames in

1 mind when I get ready to issue this order.

2 MR. STONE: I appreciate that.

3 JUDGE McGUIRE: I'm not going to promise you
4 that you'll get that, but I'll certainly keep that in
5 mind.

6 MR. OLIVER: Final word, Your Honor, my
7 colleagues handed me a note for purposes of proffer of
8 the expert reports, the report of Professor McAfee
9 would be CX-3079, the report of Mr. Nussbaum would be
10 CX-3080, and the report of Professor Jacob would be
11 CX-3081.

12 JUDGE McGUIRE: Okay. Very good.

13 Is there anything else, Mr. Oliver?

14 MR. OLIVER: Not at this time, Your Honor.

15 JUDGE McGUIRE: Okay. Thank you very much.

16 And just so we're clear, I understand that
17 respondent will start the presentation of its case in
18 chief on Wednesday, July 9.

19 MR. STONE: Yes, Your Honor.

20 JUDGE McGUIRE: Okay. Very good. I hope
21 everyone has a good and happy and safe holiday. We'll
22 see you on the 9th.

23 MR. STONE: Thank you, Your Honor. You, too.

24 (Time noted: 5:50 p.m.)

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 30, 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 30, 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

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