

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of

RAMBUS INC.,

a corporation.

Docket No. 9302

DECLARATION OF STEVEN M. PERRY IN OPPOSITION TO MOTION  
OF NON-PARTY MITSUBISHI ELECTRIC CORPORATION TO  
ENFORCE PROTECTIVE ORDER

I, Steven M. Perry, declare:

1. I am a member of the State Bar of California and a member of the law firm of Munger, Tolles & Olson LLP, co-counsel for respondent Rambus Inc. (“Rambus”) in this matter. I submit this declaration in support of Rambus Inc.’s Opposition to Motion of Non-Party Mitsubishi Electric Corporation to Enforce Protective Order. I have personal knowledge of the facts set forth in this declaration.

2. In January 2003, I had discussions with Donald Harris, counsel for Mitsubishi Electric Corporation (“Mitsubishi Japan”), regarding the subpoena by Rambus on Mitsubishi Japan’s subsidiary in the United States, Mitsubishi Electric & Electronics USA, Inc. (“MEUS”). In those discussions, as well as in correspondence, Mr. Harris adamantly maintained on behalf of Mitsubishi Japan that documents in the parent company’s possession were not subject to the subpoena that Rambus had served on

MEUS. Mr. Harris told me that Mitsubishi Japan was unwilling to create any precedent by acknowledging in any way that a litigant could obtain documents located in the files of the Japanese parent by serving a subpoena upon the U.S. subsidiary. Mr. Harris stated that it was Mitsubishi Japan's position that Rambus's subpoena had never been, and could never be, served on Mitsubishi Japan or enforced upon it. Mr. Harris stated that Mitsubishi Japan would not provide any documents as a result of the subpoena or in connection with any discovery process.

3. Given Mitsubishi Japan's refusal to acknowledge that its files were available to be produced in "discovery," I asked Mr. Harris in a letter dated January 22, 2003 whether the Japanese parent company would voluntarily provide to Rambus certain documents. The categories of documents listed in my letter differ in several respects from those sought in the subpoena that Rambus had served on MEUS. A true and correct copy of my January 22, 2003 letter is attached as Exhibit A.

4. After further discussion, Mr. Harris agreed on behalf of Mitsubishi Japan voluntarily to provide certain documents to Rambus. On February 18, 2003, I received a letter from Mr. Harris stating that he was shipping to me "documents voluntarily produced by Mitsubishi Electric Corporation ("MELCO") in response to your letter request." A true and correct copy of Mr. Harris's letter is attached as Exhibit B.

5. Mr. Harris's letter does not suggest that he or Mitsubishi Japan was providing documents in response to any subpoena, nor does his letter concede or state that the Japanese parent company was invoking the protection of the U.S. judicial process or agency process in any way. I understood at the time that Mr. Harris had taken that

position very deliberately, consistent with his position about the lack of agency or court jurisdiction over the Japanese parent's documents. I subsequently received several boxes of documents from Mr. Harris. The documents that were provided to me bore no confidentiality designation of any kind.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April \_\_ , 2003 at Los Angeles, California.

---

Steven M. Perry

**PROOF OF SERVICE BY FACSIMILE/FEDERAL EXPRESS**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 355 South Grand Avenue, 35th Floor, Los Angeles, California 90071-1560

On April 19, 2004, I served the foregoing document described as: **DECLARATION OF STEVEN M. PERRY IN OPPOSITION TO MOTION OF NON-PARTY MITSUBISHI ELECTRIC CORPORATION TO ENFORCE PROTECTIVE ORDER** on the designated parties in this action by having a true copy thereof transmitted by facsimile machine to the number listed below. I caused the facsimile machine to print a record of the transmission, a copy of which is attached to this declaration.

On April 19, 2004, I also served a copy of the aforementioned document on the designated parties in this action by Federal Express overnight courier service. I am "readily familiar" with the firm's practice of collection and processing correspondence for delivery to an employee of Federal Express. Under that practice it would be delivered to an employee of Federal Express on that same day at Los Angeles, California with charges to be billed to Munger, Tolles & Olson's account for delivery to the office of the addressee on December 30, 2002 in the ordinary course of business.

**By Facsimile and FedEx**

Geoffrey Oliver, Esq.  
Malcolm L. Catt, Esq.  
Federal Trade Commission  
601 New Jersey Avenue  
Washington, D.C. 20001  
**Facsimile: 202-326-3496**  
**By Facsimile and FedEx**

**By Facsimile and FedEx**

Richard B. Dagen, Esq.  
Federal Trade Commission  
601 Pennsylvania Avenue, N.W.  
Room 6223  
Washington, D.C. 20580  
**Facsimile: 202-326-3496**

Executed on April 19, 2004, at Los Angeles, California.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

---

Eunice Ikemoto

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

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

**CERTIFICATION**

I, Steven M. Perry, hereby certify that the electronic copy of **DECLARATION OF STEVEN M. PERRY IN OPPOSITION TO MOTION OF NON-PARTY MITSUBISHI ELECTRIC CORPORATION TO ENFORCE PROTECTIVE ORDER** accompanying this certification is a true and correct copy of the paper original and that a paper copy with an original signature is being filed with the Secretary of the Commission on April 19, 2004 by other means.

Dated: April 19, 2004

/s/  
Steven M. Perry