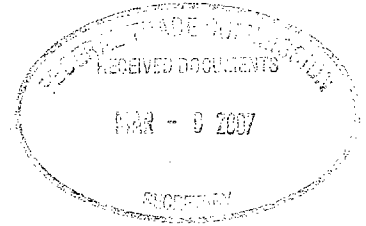


PUBLIC

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: Deborah Platt Majoras, Chairman
Pamela Jones Harbour
Jon Leibowitz
William E. Kovacic
J. Thomas Rosch



In the Matter of

RAMBUS INC.,

a corporation.

Docket No. 9302

**OPPOSITION OF RESPONDENT RAMBUS INC. TO MOTION OF
MICRON TECHNOLOGY, INC., SAMSUNG ELECTRONICS
CORPORATION, LTD., AND HYNIX SEMICONDUCTOR, INC. FOR
LEAVE TO FILE BRIEF AS *AMICI CURIAE***

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Respondent Rambus Inc. (“Rambus”) respectfully submits this Opposition to the Motion by Micron Technology, Inc., Samsung Electronics Corporation, Ltd., and Hynix Semiconductor, Inc. for Leave to File Brief as Amici Curiae. The Commission should reject the amicus brief that these companies (collectively, “Amici”) seek to file because it is untimely and because it fails to meet the Commission’s criteria for amicus briefs. Should the Commission accept the proposed amicus brief, Rambus moves for leave to file a supplemental response to that brief. That proposed supplemental response, along with an accompanying motion, is filed herewith.

I. AMICI’S BRIEF SHOULD BE REJECTED AS UNTIMELY.

Amici purport to submit their brief pursuant to Rule 3.52(j) of the Commission’s Rules of Practice, 16 C.F.R. § 3.52(j). It is far from clear that Rule 3.52(j) even allows amicus briefs in opposition to a petition for reconsideration.¹ Even if Rule 3.52(j) does allow such amicus briefs, however, the proposed amicus brief should be rejected because it is untimely. Rule 3.52(j) states:

Except as otherwise permitted by the Commission, an amicus curiae shall file its brief within the time allowed the parties whose position as to affirmance or reversal the amicus brief will support. The Commission shall grant leave for a later filing only for cause shown

Rambus filed its petition for reconsideration and served it upon all parties on February 16, 2007.

Rule 3.55 provides that “[a]ny party desiring to oppose such a petition shall file an answer thereto within ten (10) days after service upon him of the petition.” In accordance with Rule

¹ Rule 3.52(j) provides that an amicus curiae may seek leave to file a brief concerning a party’s appeal of an *initial decision* to the Commission; it does not state that an amicus may file a brief opposing a party’s petition for reconsideration under Rule 3.55. Rule 3.55, in turn, addresses only the procedures by which a “party” may oppose a petition for reconsideration; it says nothing about amicus filings at all.

3.55, Complaint Counsel filed its Response to Rambus's petition on February 26, 2007. If Rule 3.52(j) does allow Amici to respond to Rambus's petition for reconsideration, then they should have filed their brief on the same date. But the Amici did not file their brief until March 1, 2007—three days later. Under Rule 3.52(j), such a late filing may be accepted only “for cause shown.” But Amici do not even *attempt* to show that they have “cause” for their late filing. The Commission should therefore reject their brief as untimely. *See* Order Denying Motion for Leave to File Brief Amicus Curiae, *In re North Texas Specialty Physicians*, No. 9312, 2005 WL 1541535 (F.T.C. June 7, 2005).

II. AMICI NEITHER EXPLAIN WHY THEIR BRIEF IS “DESIRABLE,” AS REQUIRED BY RULE 3.52(j), NOR DISCUSS ANY “PRACTICAL INDUSTRY EXPERIENCE” THAT WOULD AID THE COMMISSION.

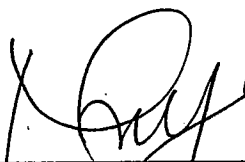
Amici also fail to satisfy the requirement of Rule 3.52(j) that they “state the reasons why [their brief] is desirable.” Amici appear to have filed their brief in response to a statement in Complaint Counsel's Response to Rambus's Petition for Reconsideration (CC Response) suggesting that “industry members may also wish to file comments to bring additional practical industry experience to bear on the issues raised by Rambus.” CC Response 2. Amici's brief, however, is devoid of any discussion of “practical industry experience” that might have any relevance to the issues raised in Rambus's petition for reconsideration. Instead, the amicus brief largely repeats the points already made by Complaint Counsel. The brief claims, among other things, that: (1) the Order prohibits collection of fees and damages for pre-Order use and infringement of Rambus's patents; (2) the Commission has remedial authority to issue such a prohibition; (3) relying on the plain language of the Order would make the Order ineffectual; (4) relying on the plain language of the Order would create incentives for respondent companies to resist FTC enforcement actions; (5) Rambus's proposed modifications of the Order are

unwarranted; and (6) the Order should not be stayed pending appeal. These points duplicate Complaint Counsel's presentation, and none of them relates to or relies upon the Amici's "practical experience" in the industry. Accordingly, the brief should be rejected as needlessly repetitive of Complaint Counsel's filings.

CONCLUSION

For the foregoing reasons, the Commission should deny the Amici's Motion for Leave to File Brief as Amici Curiae. Alternatively, if the Commission grants the Amici's motion, Rambus requests that the Commission grant Rambus's motion for leave to file a response to that brief, which is filed herewith.

Respectfully submitted,



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March 9, 2007

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Deborah Platt Majoras, Chairman
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In the Matter of

RAMBUS INC.,

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**[PROPOSED] ORDER DENYING MOTION OF MICRON TECHNOLOGY,
INC., SAMSUNG ELECTRONICS CORPORATION, LTD., AND HYNIX
SEMICONDUCTOR, INC. FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE***

Upon consideration of the Motion of Micron Technology, Inc., Samsung Electronics
Corporation, Ltd., and Hynix Semiconductor, Inc. for Leave to File Brief as Amici Curiae,

IT IS ORDERED that the motion is **DENIED**.

By the Commission.

Donald S. Clark
Secretary
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