

# EXHIBIT A



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Bureau of Competition

M. Sean Royall  
Deputy Director

(202) 326-3663

November 19, 2002

Mr. Steven M. Perry, Esq.  
Munger, Tolles & Olson LLP  
355 South Grand Avenue  
Thirty-Fifth Floor  
Los Angeles, CA 90071-1560

Dear Steve:

I have received and reviewed your letter dated November 18 regarding DRAM pricing discovery issues. Without responding to everything you have said, I would like to clarify a few points to ensure that our position on these matters is neither misrepresented nor misunderstood.

First of all, you imply, indirectly, that we have somehow attempted to interfere with Rambus's efforts to obtain third-party discovery on these issues. For instance, you refer, facetiously, to our "professed desire not to intervene in Rambus's discovery efforts." I am somewhat puzzled by the implication of this and other statements in your letter.

Our correspondence on this subject started, as you know, with your November 5 letter to Geoff Oliver and myself in which you outlined the nature of the third-party discovery issue Rambus has encountered and asked us to "consider these issues and get back to" you. A few days later, when we acknowledged the receipt of your letter on a conference call and indicated that we planned to reply, you suggested that the matter was of some urgency, as you had recently filed a motion to compel against Micron seeking production of the sorts of pricing-related materials that were in dispute. Following that call, as a courtesy to you, I moved the task of responding to your letter to the top of my list. In fact, I rushed to complete that response on Thursday afternoon immediately before departing to the airport for a weekend trip with my family. I copied Micron's counsel, Richard Rosen, on the letter because I thought it was only fair that Micron be able to see the response that you had urgently requested underscoring its potential bearing on Rambus's pending motion to compel.

I must say, it came as a surprise to me to see that, after undertaking special efforts to comply with your request for input, you then responded by making veiled accusations against us of intentional interference with third-party discovery. You may not have liked the response that your letter elicited from us, but that hardly warrants any suggestion of interference on our part.

Steven M. Perry  
November 19, 2002  
Page 2

I was also surprised that my response to your inquiry precipitated such an argumentative reply. For instance, your most recent letter makes a number of pointed arguments about the potential relevance of certain evidence, including expert work on pricing-related issues. Though I disagree with many of your arguments, I see little to be gained from a point-by-point refutation.

I will say this, however. It appears to me that Rambus, by directing so much attention on the issue of downstream DRAM pricing, is focusing on the wrong issue, or at best an issue of subsidiary importance to the overall litigation. The primary anticompetitive effect alleged in the Commission's complaint is an increase in the prices, or royalties, paid for synchronous DRAM technology, in the relevant technology markets identified by the complaint. The Commission's complaint

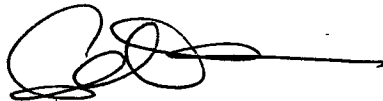
also alleges that, among other threatened effects, your client's anticompetitive conduct could lead to increases in price for synchronous DRAM chips sold in downstream product markets. As explained in my previous letter, we believe that such downstream price effects are inevitable in the long term, in addition to other adverse impacts on consumers of DRAMs. The potential for consumer harm in downstream markets therefore is material to this case. But as you well know, such downstream effects fall outside of the relevant technology markets pertinent to the Section 5 violations that the Commission's complaint has asserted against Rambus. Stated differently, the adverse competitive impacts on which the Commission's complaint against Rambus is directly predicated involve technology markets, not downstream product markets, and consequently the presence or absence of proof of actual downstream effects is, in itself, in no way determinative of liability.

Finally, because you implied that a statement in Complaint Counsel's opposition to Rambus's motion to stay may be "in conflict" with comments made in my November 15 letter, I feel obliged to respond and set the record straight. As you noted, we previously have represented that "every day of delay before a judgment in this action allows an irreversible transfer of wealth from manufacturers and consumers into the pockets of Rambus." (Your emphasis.) We continue to stand by this statement, and in our view it does not conflict with anything said in this letter or my previous letter. The fact is that your client's actions have caused an irreversible, and we believe illegitimate, transfer of wealth. To date, Rambus has been most successful in extracting illegitimate rents from DRAM manufacturers, and others, who have directly licensed Rambus's patents based on claimed coverage of aspects of the SDRAM interface. Yet the fact is that these companies are consumers – consumers of DRAM-related technology, that is, representing the buyer side of the relevant markets set forth in the Commission's complaint. Moreover, we believe that the harm your client has inflicted upon these companies will, over the longer term, naturally and inevitably be felt by consumers in downstream markets as well. By the term "consumers" in the latter context, we are referring generically to downstream purchaser of DRAMs, such as PC OEMs, as well as potentially the purchasers of products incorporating DRAMs.

Steven M. Perry  
November 19, 2002  
Page 3

In our view, the fact that such downstream effects are not likely to be discernable in the near term – coupled with the fact that such effects fall outside of the relevant markets identified in the Commission's complaint – suggests that we need not, and should not, expend our limited resources conducting detailed downstream pricing analyses. Nonetheless, we would submit that the potential for future downstream pricing effects is something that can and should be considered, independent of the sorts of analyses that you have described.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

M. Sean Royall  
Deputy Director

MSR:rs

cc: Richard Rosen, Esq.  
(counsel for Micron)

# **EXHIBIT B**



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Bureau of Competition

M. Sean Royall  
Deputy Director

(202) 326-3663

November 15, 2002

Mr. Steven M. Perry, Esq.  
Munger, Tolles & Olson LLP  
355 South Grand Avenue  
Thirty-Fifth Floor  
Los Angeles, CA 90071-1560

Dear Steve,

This letter responds to your letter of November 5, addressed to me and Geoff Oliver, concerning Rambus's efforts to obtain third-party discovery from major DRAM manufacturers relating to DRAM module and chip pricing. It is not our intention, as you know, to intervene or interfere in any way with Rambus's discovery-related dealings with third parties pertaining to this litigation. Our understanding, however, is that your reason for writing us was simply to verify that your assumptions with respect to Complaint Counsel's positions in this litigation are correct – namely, your assumption that Complaint Counsel is likely at the hearing in this case to raise issues relating to DRAM module and chip pricing. Our response is that yes, this assumption is correct, although we believe that this response may require some clarification.

As your letter notes, we have contended in this case that Rambus's challenged conduct has resulted in, or otherwise threatens, various forms of injury to competition. In this regard, we contend that Rambus's conduct not only has increased the technology-related prices (or royalties) paid by synchronous DRAM manufacturers, but also that such conduct threatens to cause increases in the prices of synchronous DRAM devices themselves, as well as downstream products that use or incorporate synchronous DRAM devices, in part due to the potential for DRAM manufacturers to pass through to their customers some or all of the increased costs associated with Rambus's conduct. To the extent that Rambus documents or third-party documents comment on the potential for such pass through to occur, we believe that such documents may be highly relevant to our contentions.

On the other hand, in our view, documents that simply embody or record pricing-related data for DRAM modules or chips are far less likely to be relevant, for the following basic reason: Given the highly competitive nature of the DRAM marketplace, it is our understanding that market prices are dictated primarily by supply and demand, and that manufacturing costs, in the short term, are not likely to influence market prices, except to the extent that the lowest-cost

producers may bid prices down in response to competition from others. As a consequence, even though Rambus's conduct has, among other things, raised the technology-related costs of synchronous DRAM manufacturers – in particular, those manufacturers from which Rambus has been successful in securing license agreements – it is not likely that these DRAM manufacturers would be able to unilaterally increase the prices at which their products are sold, or that any such increases would be detectable from an analysis of pricing data over the past 1-2 years (that is, since Rambus began collecting royalties on synchronous DRAM devices). This is not to say that, over the longer term, such downstream price increases are unlikely. We expect they would be. Moreover, in the event that Rambus succeeded in enforcing its patent rights against all or substantially all synchronous DRAM manufacturers, this would likely precipitate swifter effects in terms of downstream price increases. Nevertheless, for the reasons explained above, we do not believe that potentially costly, and time consuming, analyses of detailed pricing data are likely to yield anything useful in this case, nor do we presently plan to conduct – or have our experts conduct – such analyses for purposes of the administrative hearing.

We hope that this letter adequately responds to your question. If you would like to discuss the matter further, please let us know.

Sincerely,

A handwritten signature in black ink that reads "M. Sean Royall" followed by a flourish and the initials "By MLC".

M. Sean Royall  
Deputy Director

cc: Rich Rosen, Esq.

# EXHIBIT C



MUNGER, TOLLES & OLSON LLP

355 SOUTH GRAND AVENUE
THIRTY-FIFTH FLOOR
LOS ANGELES, CALIFORNIA 90071-1560
TELEPHONE (213) 683-9100
FACSIMILE (213) 687-3702

33 NEW MONTGOMERY STREET
SAN FRANCISCO, CALIFORNIA 94105-8781
TELEPHONE (415) 512-4000
FACSIMILE (415) 512-4077

November 18, 2002

PETER R. TAFT
ROBERT K. JOHNSON
ALAN V. FRIEDMAN
RONALD L. OLSON
DENNIS C. KIRKHAIRD
RICHARD S. VOLPERT
SMOON M. LORNE
DENNIS C. BROWN
ROBERT C. DENHAM
JEFFREY L. WEINBERGER
ROBERT L. ADLER
CARY B. LERMAN
CHARLES D. SIGGAL
RONALD K. MEYER
GREGORY B. STONE
VELMA S. MARTINEZ
BRAD D. BRIAN
BRADLEY S. PHILLIPS
GEORGE N. GARVEY
WILLIAM D. TOMKO
STEVEN L. QUINN
ROBERT B. KHALILS
B. GREGORY MORSE
STEPHEN M. KRISTOVICH
JOHN W. BRIDGES
TERRY E. SANDRICH
STEVEN M. PERRY
RUTH E. FESCH
MARK B. HELM
JOSEPH D. LEE
MICHAEL A. DRYEN
MICHAEL E. SOLOFF
GREGORY B. PHILLIPS
LAWRENCE C. BARTH
PATRICK M. WOODWELL
GLENN D. ROSENWALT
THOMAS B. WALKER

RONALD C. HAUSSMANN
PATRICK J. CAPPERRY, JR.
JAY M. FUJITANI
O'MALLEY M. MILLER
BARBARA A. SHELLEY-JONES
MARK W. ERSTEN
HENRY WEISSMANN
KEVIN S. ALLRED
MARC A. BECKER
CYNTHIA L. BURCH
BART M. WILLIAMS
JEFFREY A. HEINTZ
JUDITH T. HYLAND
KRISTIN LINDSEY HYLES
KARE T.C. DVORECKY
JEROME C. WOTH
STEPHEN O. ROSE
JEFFREY L. BILSON
GARTH T. WINCENT
TED DAVIS
MARK SHINBERMAN
STUART B. SCHNITZER
MARTIN D. BORN
STEVEN B. WEISBURG
EDWARD C. HAGEROTT, JR.
RICHARD E. BROGNYAN
ROBERT L. DELL ANIELLO
BRUCE A. ABBOTT
JONATHAN E. ALTMAN
MARY ANN TODD
MICHAEL J. O'BULLMAN
KELLY M. KHALIS
OWEN S. GOLDMAN
BLUFON A. GROSS
KEVIN B. MASUDA
MELISSA KRAMER
KRISTIN S. ESCALANTE

DAVID C. DINIELLI
ANDREA WISS JOFFRIES
ALLISON B. STON
MARSHA HYMANSON
MONICA WAIL SMAFFER
SUSAN R. SZABO
DAVID M. ROSENWELD
PETER A. DETRE
DEVON ALEXANDER GOLD
PAUL J. WATFORD
DAVID H. FRY
STEPHEN E. MORRISSETT
TIMOTHY J. COOLEY
LINDA S. GOLDMAN
DANA S. FRIEDMAN
TODD E. WOLZ
LINDA M. BURROW
LISA J. DEMSKY
ANDREW C. FINCH
MALCOLM A. SCHWICKS
MICHAEL B. BARELA
JAMES E. RUTTEN
BEAN R. GATES
JOHN P. KLINT
J. MARTIN WILLIAMS
PAUL A. DAVIS
NATALIE RAJES STONE
RICHARD ST. JOHN
BRYCE J. ROOSA
ANITAL T. ZECHMAN
BRYAN T. DALY
TED W. LEW
TIMOTHY B. EVANS
AMY LYNN BOYS
C. DAVID LEE
CANDY MCCOY WAGNER

KRISTIN M. AULT
JOSEPH S. KLARICH
LISA VANCE CASTLETON
LAURA S. REIDER
C. DANNEY O'BRIEN
STEVE NIM
KARIN S. GELWARTS
ALBINE MARTIN KELLY
MICHAEL E. WATERSTONE
BENJAMIN H. PEARLSTEIN
RUPRECHT B. SINGLA
SARAH A. BISHOP
BROOKS C. ALLEN
CARL HOLLIDAY MOOR
DWAYNE H. STEPHENS
JEFFREY B. SHANNON-CARTWRIGHT
AARON M. MAY
BRYANT J. DABAN
SHONT E. MILLER
JASON L. HAAS
MANUEL F. DUCHAN
ERIC J. LORENZINI
MARIA SEFERIAN
ROBERT M. ROSEN
NICOLE M. LA BELLE
TRACY-LIN M. NGUYEN
KATHERINE K. HUANG
RICHARD B. ESSEMSHADE
OF COURSE
C. MERVY TOLLES
IRVING

A PROFESSIONAL CORPORATION

WRITER'S DIRECT LINE

(213) 683-9133
(213) 683-5133 FAX
pcrtysm@mto.com

VIA FACSIMILE AND FEDERAL EXPRESS

M. Sean Royall, Esq.
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Room H-372
Washington, D.C. 20580

Re: DRAM Pricing Discovery

Dear Sean:

Thank you for your November 15 letter regarding Rambus's efforts to obtain discovery from DRAM manufacturers on issues relating to DRAM pricing and production. Your letter states that Complaint Counsel will not intervene in or interfere with the pending discovery motion that we have filed with respect to Micron's DRAM pricing analyses and its communications with competitors regarding pricing and production issues. Your letter also states that it is likely that Complaint Counsel will raise issues relating to DRAM module and chip pricing at the hearing in this matter.

Despite your professed desire not to intervene in Rambus's discovery efforts, your letter goes on to suggest that Complaint Counsel intends only to raise issues regarding the possible future impact of Rambus' conduct on DRAM pricing, rather than issues relating to past DRAM pricing. You suggest that discovery relating to past pricing might be "costly" and "time consuming."

In light of the possibility that Micron's counsel may attach your letter to Micron's opposition to our pending motion to compel, I wanted to make several points in response to your letter:

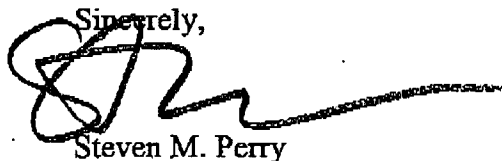
M. Sean Royall, Esq.  
November 18, 2002  
Page 2

1. It is unlikely that our respective experts can make informed judgments regarding issues relating to future DRAM pricing without understanding the past determinants of DRAM pricing decisions.
2. Your assumption that past DRAM pricing was "dictated primarily by supply and demand" is precisely that – an assumption. We are clearly entitled to test that assumption through discovery. Moreover, the assumption is subject to serious doubt given the ongoing Department of Justice investigation and the evidence that has already been accumulated.
3. Your statement that it is unlikely that Rambus' conduct has had any detectable impact on past DRAM prices is in conflict with Complaint Counsel's representation to Judge Timony – in successfully opposing Rambus' motion for a stay – that "every day of delay before a judgment in this action allows an irreversible transfer of wealth from manufacturers and consumers into the pockets of Rambus . . ." Complaint Counsel's Opposition To Rambus' Motion To Stay, p. 13. Given that the only way for consumers (who do not make, sell or buy DRAMs) to have transferred wealth to Rambus is through DRAM price increases that were so substantial that they caused price increases in consumer electronic products, your current position is difficult to understand.

In any event, thank you for confirming that our basic assumption – that Complaint Counsel intends to raise issues relating to DRAM pricing at the hearing – is correct, and thank you for confirming that Complaint Counsel will remain neutral in Rambus' ongoing efforts to take discovery in this area.

I am copying this letter to Micron's counsel and would request that if he attaches your letter to his opposition papers, that he show us the courtesy of attaching this reply.

Sincerely,



Steven M. Perry

SMP:js

cc: Richard Rosen, Esq.  
(counsel for Micron)

# EXHIBIT D

FEDERAL TRADE COMMISSION

In the Matter of: )  
 Rambus, Incorporated, ) Docket No. 9302  
                   a corporation. )  
 -----)

Friday, August 2, 2002

Room 532  
 Federal Trade Commission  
 600 Pennsylvania Avenue, N.W.  
 Washington, D.C. 20580

The above-entitled matter came on for  
 prehearing conference, pursuant to notice, at 2:00 p.m.

BEFORE THE HONORABLE JAMES P. TIMONY

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

complaint counsel suggests. And the evidence brought before you after discovery will be, I submit, that there were not patents and patent applications disclosed by other JEDEC members in a fashion that is at all consistent with the duty complaint counsel advocates.

Indeed, they disclosed very few patents and almost no patent applications because they understood the standard as -- Rambus understood the standard to be much narrower than what complaint counsel argues.

Compliance, I touched on. Rambus did, indeed, comply with the duty of disclosure that was imposed on it. But let me talk not just about its compliance and not just about the absence of the broad duty, but let me talk about the policy and ultimately the legal implications of the duty that complaint counsel advocates.

We all recognize that JEDEC is a horizontal -- it's a concerted horizontal group. In other words, what I mean by that is a group of competitors who act in concert in JEDEC, all the manufacturers that were identified by complaint counsel and many others.

It would not be permissible for them to say, you know, in thinking about the standards, it's important for us to understand whether if we adopt these standards we're going to be able to make any money selling the

products that comply with these standards, so we need to talk for a few minutes at our JEDEC meetings about future pricing strategies. I think we all recognize that that would be something impermissible.

Whether that happened or not is something of an open issue. I think we've all read about the ongoing Department of Justice Grand Jury investigation into possible price fixing by some of the manufacturers who are members of JEDEC. Whether JEDEC was a vehicle by which they accomplished that or not, I don't know. We may learn that through discovery. But in any event, what we all do know is that JEDEC is, indeed, an entity that permits certain concerted activity by competitors.

What's the justification for that policywise or legalwise? Well, the justification is that in certain instances the procompetitive benefits will outweigh the anticompetitive harm of such concerted activity.

It is understood that if a standard is set and if compliance with the standard requires you to use a patented invention, that it might be procompetitive to know before you set the standard whether adopting the standard would or would not require the use of a patented invention.

There is no procompetitive reason to know whether a patent is not required to be used, but just in