

Order

IN THE MATTER OF

RAMBUS INCORPORATED

**ORDER REOPENING THE RECORD TO ADMIT INTO
EVIDENCE THE SUPPLEMENTAL EVIDENCE FILED BY
THE PARTIES IN ACCORDANCE WITH THE
PROVISIONS OF THE COMMISSION'S ORDER OF MAY
13, 2005, AS AMENDED, AND DIRECTING BRIEFING OF
ISSUES RELATED TO SUCH SUPPLEMENTAL
EVIDENCE**

On June 17, 2005, Complaint Counsel and Respondent separately filed supplemental evidence in accordance with the terms of the Commission's Order of May 13, 2005, as modified by the Commission's Order of June 13, 2005 (hereinafter "the supplemental evidence"). After having first consulted with each other, Complaint Counsel and Respondent each filed a response to the filing of the other, neither of which raised any objection to the admission into evidence of the supplemental evidence. The Commission has determined that it should (1) reopen the record to admit into evidence the supplemental evidence and (2) order additional briefing and other proceedings in light of the admission of such evidence. Accordingly,

IT IS ORDERED THAT the record in this proceeding shall be, and it hereby is, **REOPENED** to admit into evidence the supplemental evidence; and

IT IS FURTHER ORDERED THAT:

1. On or before August 10, 2005, Complaint Counsel and Respondent shall each file amended proposed findings of fact and conclusions of law in light of the supplemental evidence, and provide cross-references to the earlier proposed findings of the parties and to the related provisions in the Initial Decision;
2. The amended proposed findings required by Paragraph 1. of

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this Order shall also include the identification of any misstatements or misrepresentations of fact that may have been previously made by any person during the course of this

matter that can now be identified by reason of the supplemental evidence;

3. On or before August 10, 2005, Complaint Counsel or Respondent may file any motions seeking additional relief or inferences resulting from or relating to any alleged spoliation of evidence by Respondent; and
4. On or before August 17, 2005, Complaint Counsel and Respondent shall each file their responses, if any, to the filings required or permitted by Paragraphs 1. or 3. of this Order.

By the Commission.

Order

IN THE MATTER OF

RAMBUS INCORPORATED

**ORDER DENYING COMPLAINT COUNSEL'S PETITION
TO MODIFY THE SCHEDULE IN THE COMMISSION'S
JULY 20, 2005 ORDER**

On July 20, 2005, the Commission entered an order reopening the record to admit supplemental evidence and directing a schedule for briefing and other filings related to such supplemental evidence. On July 28, 2005, Complaint Counsel filed a Petition asking the Commission to suspend that schedule, in light of Rambus's ongoing production to Complaint Counsel of documents Rambus recently found on its computer back-up devices and produced to the plaintiff in *Hynix Semiconductor Inc. v. Rambus Inc.*, Dkt. No. CV 00-20905 RMW (N.D. Cal.). Complaint Counsel state that they expect to be able to file a motion to admit some of these documents into the record of this proceeding by September 9, 2005, and request that the Commission postpone the briefing directed by the July 20 Order until a time at which such briefing could also address any documents produced by Rambus in the *Hynix* litigation which may be admitted into the record. In its July 29, 2005 Response, Rambus does not object to suspending the July 20 Order schedule, but indicates that it will oppose a subsequent motion to reopen the record to admit supplemental evidence from the *Hynix* litigation.

Completeness of the record, burden to the parties, and expeditious disposition of matters pending before the Commission must be balanced in order to resolve the issues raised by this Petition. The Commission does not, on balance, believe that delaying its consideration of the supplemental evidence that has already been admitted to the record of this proceeding is warranted and has, therefore, determined that the July 20 Order schedule for the briefing of issues related to that supplemental evidence should not be modified. While Complaint Counsel may at a future date seek to reopen the record to admit additional documents currently