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15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17 SAN JOSE DIVISION
 18

19 IN RE RAMBUS INC. DERIVATIVE)
 LITIGATION,)
 20)
)

CASE NO.: C-06-3513 JF

~~PROPOSED~~ ORDER AND FINAL JUDGMENT

21 _____)
 22 This Document Relates To:)
)
 23 All Actions.)
 _____)
 24

25 WHEREAS, plaintiffs Howard Chu and Gaetano Ruggieri and Herbert Franci
 26 (collectively, "Plaintiffs") on behalf of themselves and derivatively on behalf of nominal
 27 defendant Rambus Inc. ("Rambus" or the "Company"), Individual Defendants Harold Hughes,
 28

1 Geoff Tate, John D. Danforth, Laura S. Stark, Robert K. Eulau, David Mooring, Gary Harmon,
2 Kevin Kennedy, Subodh Toprani, William H. Davidow, Bruce Dunlevie J. Thomas Bentley, P.
3 Michael Farmwald, Charles Geschke, Mark Horowitz, Abraham Sofaer, Sunlin Chou, and
4 PricewaterhouseCoopers LLP (collectively “Settling Defendants”), and Rambus’ Special
5 Litigation Committee entered into a Stipulation of Settlement dated as of October 23, 2008 (the
6 “Stipulation”) representing a partial settlement of the Actions;

7 WHEREAS, Non-Settling Defendant Ed Larsen is not a Settling Defendant;

8 WHEREAS, on October 29, 2008, Plaintiffs filed a Motion for Preliminary Approval
9 of Proposed Settlement seeking preliminary approval of the Stipulation;

10 WHEREAS, on October 30, 2008, this Court entered the Preliminary Order
11 preliminarily approving the Settlement and requiring Notice be disseminated to Current Rambus
12 Stockholders as provided for in the Stipulation;

13 WHEREAS, the Preliminary Order set a Settlement Hearing for January 16, 2009, to:

14 a. determine whether to finally approve the Settlement
15 pursuant to Rule 23.1 of the Federal Rules of Civil Procedure as fair,
16 reasonable, adequate, and in the best interests of the Company and Current
Rambus Stockholders, including the payment of attorneys’ fees and
expenses in the amount negotiated by the Settling Parties;

17 b. consider whether to enter an Order and Final Judgment (a)
18 approving the terms of the Settlement as fair and reasonable and adequate;
19 (b) dismissing with prejudice all claims released against any of the
Released Persons (as defined in the Stipulation); (c) ordering that Rambus
20 be substituted as the Plaintiff in the Action against Non-Settling Defendant
Ed Larsen *nunc pro tunc* and all claims possessed by Rambus are
21 preserved and may be pursued by Rambus in the Action or in other
actions; and (d) ordering that the right to assert claims derivatively on
22 behalf of Rambus against Non-Settling Defendant Ed Larsen held by
Plaintiffs or any other Current Rambus Stockholder shall be irrevocably
assigned to Rambus; and

23 c. hear other such matters as the Court may deem necessary
24 and appropriate.

25 WHEREAS, terms not defined herein shall have the meanings ascribed to them in the
26 Stipulation;

27 WHEREAS, this matter has come before the Court for final approval of the proposed
28 Settlement of the Actions;

1 WHEREAS, Notice has been provided to Current Rambus Stockholders in compliance
2 with the Preliminary Order;

3 WHEREAS, the Court has reviewed and considered all documents, evidence, objections
4 (if any) and arguments presented in support of or against the Settlement.

5 NOW, THEREFORE, the Court being fully advised of the premises and good cause
6 appearing therefor, it is ORDERED, ADJUDGED AND DECREED that:

7 1. The Court has jurisdiction over the subject matter of the Action, over all parties to
8 the Action and over those persons and entities, if any, that objected to the Settlement.

9 2. Unless otherwise stated herein, all capitalized terms contained in this Order shall
10 have the same meaning and effect as stated in the Stipulation.

11 3. This Court hereby approves the Settlement set forth in the Stipulation and finds
12 that said Settlement is, in all respects, fair, reasonable, and adequate to each of the Settling
13 Parties, and the Settling Parties are hereby directed to perform the terms of said Settlement.

14 4. The Notice was disseminated in accordance with the Preliminary Order, and such
15 Notice and the dissemination thereof meets the requirements of Rule 23.1 of the Federal Rules of
16 Civil Procedure and due process under the United States Constitution and any other applicable
17 laws, is the best notice practicable under the circumstances, and constitutes due and sufficient
18 notice of all matters relating to the Settlement.

19 5. This Court: (a) approves the terms of the Settlement as fair and reasonable and
20 adequate; (b) dismisses with prejudice all claims asserted in the Actions against any and all of
21 the Released Persons; (c) orders that Rambus be substituted as the Plaintiff in the Action against
22 Non-Settling Defendant Ed Larsen and that all claims asserted therein against Non-Settling
23 Defendant Ed Larsen be deemed assigned to Rambus *nunc pro tunc* and may be pursued in the
24 Action or in other actions; and (d) orders that the right to assert claims derivatively on behalf of
25 Rambus against Non-Settling Defendant Ed Larsen held by Plaintiffs or any other Current
26 Rambus Stockholder shall be irrevocably assigned to Rambus.

1 6. No shareholder of Rambus may bring an action derivatively on behalf of Rambus
2 against any of the Released Persons asserting any claim that has been released pursuant to
3 Section 4 of the Stipulation.

4 7. All claims contained in the Actions against Settling Defendants Harold Hughes,
5 Geoff Tate, John D. Danforth, Laura S. Stark, Robert K. Eulau, David Mooring, Gary Harmon,
6 Kevin Kennedy, Subodh Toprani, William H. Davidow, Bruce Dunlevie J. Thomas Bentley, P.
7 Michael Farmwald, Charles Geschke, Mark Horowitz, Abraham Sofaer, Sunlin Chou, and PwC,
8 as well as all of the Released Claims against each of the above-named defendants and their
9 Related Parties, are hereby dismissed with prejudice. Nothing herein shall release any claim that
10 has been, could have been or may be asserted by Rambus against Non-Settling Defendant Ed
11 Larsen arising out of or related to the events giving rise to the Actions. As among the Settling
12 Parties, the parties are to bear their own costs, except as otherwise provided in the Stipulation.

13 8. Nothing herein shall operate to discharge or release or affect in any way any
14 claims that Rambus has or had, or that may be asserted by Rambus, arising out of or relating to
15 the events alleged in the operative complaint in this case, against Non-Settling Defendant Ed
16 Larsen, including but not limited to claims currently alleged in the pending Actions or claims
17 that may be alleged in the future in the Actions or in a new complaint by Rambus.

18 9. Upon the Effective Date, Plaintiffs (on their own behalf and derivatively on
19 behalf of Rambus), Rambus, and the Current Rambus Stockholders (in their capacity as
20 stockholders only) shall fully, finally, and forever release, relinquish, and discharge the Settling
21 Defendants and their Related Parties from any and all Released Claims that any of them has
22 against the Settling Defendants and their Related Parties. Nothing herein shall release any claim
23 that has been, could have been or may be asserted by Rambus against Non-Settling Defendant Ed
24 Larsen arising out of or related to the events giving rise to the Actions.

25 10. Upon the Effective Date, each of the Settling Defendants shall fully, finally, and
26 forever release, relinquish, and discharge the Plaintiffs and their Related Parties, Plaintiffs'
27 Counsel and its Related Parties, and Rambus and its Related Parties from any and all claims,
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1 liabilities, obligations, causes of action, expenses, damages, losses, or any other matters, whether
2 known or unknown, foreseen or unforeseeable, certain or contingent, which any of them has or
3 may come to have against the Plaintiffs and their Related Parties, Plaintiffs' Counsel and its
4 Related Parties, and Rambus and its Related Parties that arise out of, arise in connection with, or
5 relate to the institution, prosecution, assertion, settlement or resolution of the Action or the
6 Released Claims.

7 11. Upon the Effective Date, Nominal Defendant Rambus shall fully, finally, and
8 forever release, relinquish, and discharge the Plaintiffs and their Related Parties and Plaintiffs'
9 Counsel and its Related Parties, from any and all claims, liabilities, obligations, causes of action,
10 expenses, damages, losses, or any other matters, whether known or unknown, foreseen or
11 unforeseeable, certain or contingent, which Rambus has against the Plaintiffs and their Related
12 Parties, Plaintiffs' Counsel and its Related Parties that arise out of, arise in connection with, or
13 relate to the institution, prosecution, assertion, settlement or resolution of the Action or the
14 Released Claims.

15 12. Upon the Effective Date, each of the Released Persons will be forever barred and
16 enjoined from commencing, instituting or prosecuting any or all claims (including Unknown
17 Claims) against each and all of the Plaintiffs, Plaintiffs' Counsel, Rambus, and all of the Rambus
18 stockholders (solely in their capacity as Rambus stockholders) arising out of, relating to, or in
19 connection with the institution, prosecution, assertion, settlement or resolution of the Actions or
20 the Released Claims.

21 13. Neither the Stipulation nor the Settlement, nor any act performed or document
22 executed pursuant to or in furtherance of the Stipulation or the Settlement: (a) is or may be
23 deemed to be or may be offered, attempted to be offered or used in any way by the Settling
24 Parties or any other Person as a presumption, a concession or an admission of, or evidence of,
25 any fault, wrongdoing or liability of the Settling Parties; or of the validity of any Released
26 Claims; or (b) is intended by the Settling Parties to be offered or received as evidence or used by
27 any other person in any other actions or proceedings, whether civil, criminal or administrative; or

1 (c) is or may be deemed to be or may be offered, attempted to be offered or used in any way as a
2 presumption, a concession or an admission of, or evidence of, any fault, wrongdoing or liability
3 of the Non-Settling Defendant. The Released Persons and the Non-Settling Defendant may file
4 the Stipulation and/or the Judgment in any action that may be brought against them in order to
5 support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, full
6 faith and credit, release, standing, good faith settlement, judgment bar or reduction or any other
7 theory of claim preclusion or issue preclusion or similar defense or counterclaim, except that the
8 Non-Settling Defendant shall not file or assert the Stipulation and/or Judgment to support a
9 defense or counterclaim in an action brought by the Company or the Special Litigation
10 Committee; and any of the Settling Parties may file the Stipulation and documents executed
11 pursuant and in furtherance thereto in any action to enforce the Settlement.

12 14. The Court hereby approves the Fees and Expenses Award to Plaintiffs' Counsel in
13 the amount of \$2,000,000. The Fees and Expenses Award shall be paid to Lead Plaintiffs'
14 Counsel in accordance with the terms of the Stipulation within ten (10) days of the date hereof.

15 15. This Order and Final Judgment, the Stipulation, all exhibits thereto, and any and
16 all negotiations, papers, writings, statements and/or proceedings related to the Settlement are not,
17 and shall not in any way be used or construed as (a) an admission, or evidence of, the validity of
18 any of the Released Claims or of any wrongdoing or liability of the Settling Defendants; or (b)
19 an admission of, or evidence of, any fault or omission of any of the Settling Defendants in any
20 civil, criminal or administrative proceeding in any court, administrative agency or other tribunal,
21 other than in such proceedings as may be necessary to consummate or enforce the Stipulation,
22 the Settlement or this Order and Final Judgment, except that the Settling Defendants may file the
23 Stipulation and/or this Order and Final Judgment in any action that may be brought against them
24 in order to support a defense or counterclaim based on principles of *res judicata*, collateral
25 estoppel, release, good faith settlement, judgment reduction or any other theory of claim
26 preclusion or issue preclusion or similar defense or counterclaim.

1 16. Without affecting the finality of this Order and Final Judgment in any way, this
2 Court hereby retains jurisdiction with respect to implementation and enforcement of the terms of
3 the Stipulation, including effectuating the release of claims in related proceedings, and all parties
4 hereto submit to the jurisdiction of the Court for the purposes of implementing and enforcing the
5 Settlement embodied in the Stipulation.

6 17. In the event that the Settlement does not become effective in accordance with the
7 terms of the Stipulation, including effectuating the release of claims in related proceedings, this
8 Order and Final Judgment shall be vacated, and all Orders entered and releases delivered in
9 connection with the Stipulation and Order and Final Judgment shall be null and void, except as
10 otherwise provided for in the Stipulation.

11 18. During the course of the litigation of the Actions, all parties and their counsel
12 acted in good faith, and complied with Rule 11 of the Federal Rules of Civil Procedure and
13 comparable state law and rules of professional responsibility.

14 19. There is no reason for delay in the entry of this Order and Final Judgment and
15 immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the
16 Federal Rules of Civil Procedure.

17
18 DATED: January 20, 2009



THE HONORABLE JEREMY FOGEL
UNITED STATES DISTRICT COURT JUDGE
NORTHERN DISTRICT OF CALIFORNIA