

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RAMBUS, INC.

Nos. C 08-3343 SI, C 08-5500 SI

Plaintiff,

**ORDER APPOINTING THE
HONORABLE EDWARD INFANTE
(RET.) AS SPECIAL MASTER**

v.

NVIDIA CORPORATION,

Defendant.

Pursuant to Federal Rule of Civil Procedure 53 and this Court's orders issued on April 13, 2009, and April 20, 2009, and with the consent of the parties, the Court hereby appoints the Honorable Edward Infante (Retired) as a Special Master oversee discovery in these consolidated cases.

1. No Grounds for Disqualification. Pursuant to Rule 53(a)(2) and 53(b)(3), the Special Master has submitted an affidavit¹ with this Court that states that he has no relationship to the parties, counsel, action, or Court that would require disqualification of a judge under 28 U.S.C. § 455. During the course of these proceedings, the Special Master and the parties shall notify this Court immediately if they become aware of any potential grounds that would require disqualification.

2. Duties, Authority and Communication. The Special Master shall have the authority provided in Rule 53(c) and 53(d). Pursuant to Rule 53(b)(2)(B), the Special Master may communicate ex parte with the Court at any time. Pursuant to Rule 53(b)(2)(C), the Special Master shall maintain orderly files consisting of all documents submitted to him by the parties and of any of his written orders, findings, and/or recommendations. Pursuant to Rule 53(e), the Special Master shall file any written

¹ The Clerk shall electronically file this affidavit, which is attached to this order.

1 orders, findings, and/or recommendations with the Court via the Court’s Electronic Case Filing
2 (“ECF”).² Such filing shall fulfill the Special Master’s duty to serve his order on the parties. Any
3 records of the Special Master’s activities other than his written orders, findings, and/or
4 recommendations shall be filed in accordance with paragraph 6 herein.

5 3. Compensation. Pursuant to Rule 53(b)(2)(E) and 53(h), the Special Master shall be
6 compensated at his reasonable hourly rate for his services as Special Master in these proceedings. The
7 Special Master shall not charge for travel time. Plaintiffs and defendants shall each pay half of the
8 Special Master’s fees, unless the Special Master or the Court direct otherwise. The parties shall each
9 be responsible for promptly forwarding payment of the Special Master’s invoice.

10 4. Action on Special Master’s Orders, Reports or Recommendations. Pursuant to Rule
11 53(b)(2)(D) and 53(g), the procedures described in paragraphs 5 through 8 herein shall govern any
12 action on the Special Master’s orders, reports, and/or recommendations.

13 5. Time Limits for Review. Any party wishing to file objections to or a motion to adopt
14 or modify the Special Master’s orders, reports, and/or recommendations must file such objections or
15 motion with the Court within 14 days from the day the Special Master filed the order, report, and/or
16 recommendation via ECF. Any order issued by the Special Master shall remain in effect pending any
17 such objection or motion.

18 6. Filing the Record for Review. The party filing the objection or motion shall submit with
19 such objection or motion any record necessary for the Court to review the Special Master’s order, report,
20 and/or recommendation, including any transcripts of proceedings before the Special Master and any
21 documents submitted by the parties in connection with the Special Master’s order, report, and/or
22 recommendation. Failure to provide the record shall constitute grounds for the Court to overrule the
23 objection or deny the motion.


24
25 ² These cases are subject to Electronic Case Filing (“ECF”), pursuant to General Order 45,
26 Section VI of which requires that all documents in such a case be filed electronically. General Order
27 45 provides at Section IV(A) that “Each attorney of record is obligated to become an ECF User and be
28 assigned a user ID and password for access to the system upon designation of the action as being subject
to ECF.” If he has not already done so, the Court requests that Judge Infante register as an ECF user
and be issued an ECF user ID and password. Forms and instructions can be found on the Court’s web
site at ecf.cand.uscourts.gov.

1 7. Standard for the Court's Review. Pursuant to Rule 53(g)(3)-(5), the Court shall review
2 findings of fact made or recommended by the Special Master for clear error. The Court shall review
3 *de novo* any conclusions of law made or recommended by the Special Master. The Court will set aside
4 the Special Master's ruling on a procedural matter only for an abuse of discretion.

5 8. Court's Actions on Special Master's Orders. Pursuant to Rule 53(g)(1), in acting on an
6 order, report, or recommendations of the Special Master, the Court shall afford each party an
7 opportunity to be heard and, in its discretion, may receive evidence, and may adopt or affirm; modify;
8 wholly or partly reject or reverse; resubmit to the Special Master with instructions; or make any further
9 orders it deems appropriate.

10
11 **IT IS SO ORDERED.**

12
13 Dated: May 1, 2009



SUSAN ILLSTON
United States District Judge

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28