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E-filed: 3/10/2009

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

HYNIX SEMICONDUCTOR INC., HYNIX  
SEMICONDUCTOR AMERICA INC.,  
HYNIX SEMICONDUCTOR U.K. LTD., and  
HYNIX SEMICONDUCTOR  
DEUTSCHLAND GmbH,  
  
Plaintiffs,  
  
v.  
  
RAMBUS INC.,  
  
Defendant.

No. C-00-20905 RMW  
ORDER REGARDING ENTRY OF  
JUDGMENT

The parties have submitted competing proposed forms of judgment. The parties agree on the form of judgment in all but two respects. As to the first, Hynix requests that it be permitted to accrue or deposit in escrow the ongoing royalties owed under the judgment pending resolution of any appeals from the judgment. Hynix's request is premature. Hynix may raise the issue by way of a Rule 62 motion following entry of judgment. The court also notes that Hynix's fear – that Rambus will not return any royalties paid by Hynix even if Hynix prevails on appeal – appears baseless. *E.g., Broadcom Corp. v. Qualcomm Inc.*, 585 F. Supp. 2d 1187 (C.D. Cal. 2008) (ordering Broadcom to repay "sunset royalties" following Federal Circuit reversal on liability).

As to the second, the parties dispute the timing of any proceedings regarding the taxing of

ORDER REGARDING ENTRY OF JUDGMENT  
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1 costs. Hynix requests that any determination of costs occur after all appeals are final. Though there  
2 is some wisdom to Hynix's approach, *see, e.g., American Infra-Red Radiant Co. v. Lambert*  
3 *Industries, Inc.*, 41 F.R.D. 161 (D. Minn. 1966), the Civil Local Rules contemplate addressing costs  
4 swiftly. *See* Civil L.R. 54-1(a) (imposing a 14-day deadline following entry of judgment for a  
5 prevailing party to file its bill of costs). This ensures that the court considers the reasonableness of  
6 costs while the case is fresh, which is important because this inquiry is difficult when made from a  
7 "cold" record.

8       The magnitude of this case, and the alleged size of Rambus's cost bill, counsel against  
9 submitting the bill of costs to the clerk's office in the first instance. *E.g., Syracuse Broadcasting*  
10 *Corp. v. Newhouse*, 32 F.R.D. 29, 29 (N.D.N.Y. 1963) ("The attorneys for both sides seem satisfied  
11 to . . . bypass the Clerk in the first instance. . . . In fact, the substantial items challenged are ones  
12 peculiarly within the knowledge of the trial judge and would be practically an impossible burden for  
13 the Clerk to resolve with any degree of reason and certainty."); *Deering, Milliken & Co v.*  
14 *Temp-Resisto Corp.*, 169 F. Supp. 453, 456 (S.D.N.Y. 1959) (explaining why "[t]here is no merit in  
15 the defendants' contention that Rule 54(d), F.R.Civ.P., requires that costs must be taxed in the first  
16 instance by the clerk and that the Court has no power to tax them"). The difficulty of this inquiry  
17 also counsels against the application of the Local Rules' 14-day deadline for filing the bill of costs  
18 and 10-day deadline for filing objections. *See* Civil L.R. 54-1(a); 54-2(a). Accordingly, Rambus  
19 shall have 30 days from the entry of judgment to file its bill of costs with the court. Hynix shall  
20 have 21 days to file any objections to Rambus's bill of costs, and may seek from the court any  
21 necessary extension.



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23 DATED: 3/10/2009

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RONALD M. WHYTE  
United States District Judge

1 This document has been electronically sent to: counsel in 00-20905.

		<b>Appearances:</b>			
<b>Counsel</b>	<b>Email</b>	05-00334	05-02298	06-00244	00-20905
<b>Rambus:</b>					
4 Kathryn Kalb Anderson	Kate.Anderson@mto.com	x		x	
5 Peter A. Detre	<a href="mailto:detrepa@mto.com">detrepa@mto.com</a>	x	x	x	x
5 Erin C. Dougherty	<a href="mailto:erin.dougherty@mto.com">erin.dougherty@mto.com</a>	x	x	x	x
6 Sean Eskovitz	sean.eskovitz@mto.com	x	x	x	x
6 Burton Alexander Gross	<a href="mailto:Burton.Gross@mto.com">Burton.Gross@mto.com</a>	x	x	x	x
7 Keith Rhoderic Dhu Hamilton, II	keith.hamilton@mto.com	x	x	x	x
7 Pierre J. Hubert	<a href="mailto:phubert@mckoolsmith.com">phubert@mckoolsmith.com</a>	x	x	x	x
8 Andrea Jill Weiss Jeffries	Andrea.Jeffries@mto.com	x	x	x	
8 Miriam Kim	<a href="mailto:Miriam.Kim@mto.com">Miriam.Kim@mto.com</a>	x	x	x	x
9 Carolyn Hoecker Luedtke	<a href="mailto:carolyn.luedtke@mto.com">carolyn.luedtke@mto.com</a>	x	x	x	x
9 Steven McCall Perry	<a href="mailto:steven.perry@mto.com">steven.perry@mto.com</a>	x	x	x	x
10 Jennifer Lynn Polse	jen.polse@mto.com	x	x	x	x
10 Matthew Thomas Powers	<a href="mailto:mpowers@sidley.com">mpowers@sidley.com</a>	x			
11 Rollin Andrew Ransom	rransom@sidley.com	x	x	x	x
11 Rosemarie Theresa Ring	rose.ring@mto.com	x	x	x	x
12 Gregory P. Stone	<a href="mailto:gregory.stone@mto.com">gregory.stone@mto.com</a>	x	x	x	x
12 Craig N. Tolliver	ctolliver@mckoolsmith.com	x	x	x	x
13 Donald Ward	Bill.Ward@mto.com	x	x	x	
13 David C. Yang	david.yang@mto.com	x	x	x	x
14 Douglas A. Cawley	dcawley@mckoolsmith.com			x	
14 Scott L Cole	scole@mckoolsmith.com			x	
15 William Hans Baumgartner, Jr	wbaumgartner@sidley.com				x
15 Scott W. Hejny	shejny@sidley.com				x
16 Kelly Max Klaus	kelly.klaus@mto.com				x
16 Catherine Rajwani	crajwani@sidley.com				x
17 Thomas N Tarnay	ttarnay@sidley.com				x
<b>Hynix:</b>					
18 Theodore G. Brown , III	<a href="mailto:tgbrown@townsend.com">tgbrown@townsend.com</a>	x	x	x	x
19 Daniel J. Furniss	<a href="mailto:djfurniss@townsend.com">djfurniss@townsend.com</a>	x			x
20 Joseph A. Greco	<a href="mailto:jagreco@townsend.com">jagreco@townsend.com</a>	x			x
20 Julie Jinsook Han	JJHan@townsend.com	x	x	x	
21 Tomomi Katherine Harkey	tharkey@omm.com	x			x
21 Jordan Trent Jones	<a href="mailto:jtjones@townsend.com">jtjones@townsend.com</a>	x			x
22 Patrick Lynch	plynch@omm.com	x			x
22 Kenneth Lee Nissly	<a href="mailto:kennissly@omm.com">kennissly@omm.com</a>	x		x	x
23 Kenneth Ryan O'Rourke	<a href="mailto:korourke@omm.com">korourke@omm.com</a>	x			x
23 Belinda Martinez Vega	<a href="mailto:bvega@omm.com">bvega@omm.com</a>	x	x	x	x
24 Geoffrey Hurndall Yost	gyost@thelenreid.com	x	x	x	x
24 Susan Gregory van Keulen	<a href="mailto:svankeulen@omm.com">svankeulen@omm.com</a>	x		x	x
25 Allen Ruby	ruby@allenrubylaw.com				x
<b>Micron:</b>					
26 Robert Jason Becher	robertbecher@quinnemanuel.com	x		x	x
27 John D Beynon	<a href="mailto:john.beynon@weil.com">john.beynon@weil.com</a>	x	x	x	x
28 Jared Bobrow	<a href="mailto:jared.bobrow@weil.com">jared.bobrow@weil.com</a>	x	x	x	x

**United States District Court**

For the Northern District of California

1	Yonaton M Rosenzweig	<a href="mailto:yonirosenzweig@quinnemanuel.com">yonirosenzweig@quinnemanuel.com</a>	x		x	x
	Harold Avrum Barza	<a href="mailto:halbarza@quinnemanuel.com">halbarza@quinnemanuel.com</a>			x	
2	Linda Jane Brewer	<a href="mailto:lindabrewer@quinnemanuel.com">lindabrewer@quinnemanuel.com</a>			x	
	Aaron Bennett Craig	<a href="mailto:aaroncraig@quinnemanuel.com">aaroncraig@quinnemanuel.com</a>			x	x
3	Leeron Kalay	<a href="mailto:kalay@fr.com">kalay@fr.com</a>			x	
	David J. Lender	<a href="mailto:david.lender@weil.com">david.lender@weil.com</a>			x	
4	Rachael Lynn Ballard McCracken	<a href="mailto:rachaelmccracken@quinnemanuel.com">rachaelmccracken@quinnemanuel.com</a>			x	
	Sven Raz	<a href="mailto:sven.raz@weil.com">sven.raz@weil.com</a>			x	
5	David J. Ruderman	<a href="mailto:davidruderman@quinnemanuel.com">davidruderman@quinnemanuel.com</a>			x	
6	Elizabeth Stotland Weiswasser	<a href="mailto:elizabeth.weiswasser@weil.com">elizabeth.weiswasser@weil.com</a>			x	
7	<b>Nanya:</b>					
	Jason Sheffield Angell	<a href="mailto:jangell@orrick.com">jangell@orrick.com</a>	x	x	x	x
8	Kristin Sarah Cornuelle	<a href="mailto:kcornuelle@orrick.com">kcornuelle@orrick.com</a>	x	x	x	
	Chester Wren-Ming Day	<a href="mailto:cday@orrick.com">cday@orrick.com</a>	x			
9	Jan Ellen Ellard	<a href="mailto:jellard@orrick.com">jellard@orrick.com</a>	x		x	
	Vickie L. Feeman	<a href="mailto:vfeeman@orrick.com">vfeeman@orrick.com</a>	x	x	x	
10	Robert E. Freitas	<a href="mailto:rfreitas@orrick.com">rfreitas@orrick.com</a>	x			
	Craig R. Kaufman	<a href="mailto:hlee@orrick.com">hlee@orrick.com</a>	x			
11	Hao Li	<a href="mailto:hli@orrick.com">hli@orrick.com</a>	x			
	Cathy Yunshan Lui	<a href="mailto:clui@orrick.com">clui@orrick.com</a>	x			
12	Theresa E. Norton	<a href="mailto:tnorton@orrick.com">tnorton@orrick.com</a>	x			
	Mark Shean	<a href="mailto:mshean@orrick.com">mshean@orrick.com</a>	x			
13	Kaiwen Tseng	<a href="mailto:ktseng@orrick.com">ktseng@orrick.com</a>	x			
14	<b>Samsung:</b>					
	Steven S. Cherensky	<a href="mailto:steven.cherensky@weil.com">steven.cherensky@weil.com</a>	x	x		
15	Dana Prescott Kenned Powers	<a href="mailto:dana.powers@weil.com">dana.powers@weil.com</a>	x	x	x	
16	Matthew Douglas Powers	<a href="mailto:matthew.powers@weil.com">matthew.powers@weil.com</a> , <a href="mailto:matthew.antonelli@weil.com">matthew.antonelli@weil.com</a>	x	x		
17	Edward Robert Reines	<a href="mailto:Edward.Reines@weil.com">Edward.Reines@weil.com</a>	x	x		x
18	<b>United States Dept. of Justice</b>					
	May Lee Heye	<a href="mailto:may.hey@usdoj.gov">may.hey@usdoj.gov</a>				x
19	Eugene S. Litvinoff	<a href="mailto:eugene.litvinoff@usdoj.gov">eugene.litvinoff@usdoj.gov</a>				x
	Niall Edmund Lynch	<a href="mailto:Niall.Lynch@USDOJ.GOV">Niall.Lynch@USDOJ.GOV</a>				x

21 Counsel are responsible for distributing copies of this document to co-counsel that have not  
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23 **Dated:** 3/10/2009 TSF  
 24 **Chambers of Judge Whyte**

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 27  
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