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Technical Director
Financial Accounting Standards Board
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RE: Exposure Draft – Revenue Recognition (Topic 605): Revenue from Contracts with Customers

Rambus Inc. ("the Company" or "we") welcomes the opportunity to provide comments to the Financial Accounting Standards Board ("FASB") or International Accounting Standards Board ("IASB") (collectively, "the Boards") on the proposed Exposure Draft ("ED") on Revenue from Contracts with Customers.

Rambus Inc. is a technology licensing company. The Company specializes in the invention and design of architectures focused on enhancing the end-user experience of computing, communications and consumer electronics applications. The Company’s patented innovations and breakthrough technologies help industry-leading companies bring superior products to market. The Company licenses both its world-class patent portfolio, as well as its family of leadership and industry-standard solutions.

The Company’s revenue consists of royalty revenue and contract revenue generated from agreements with semiconductor companies, system companies and certain reseller arrangements.

Royalty revenue accounted for over 90% of the Company’s total revenue in each of the past two years. Royalty revenue consists of patent license and technology license royalties. Our patent licensing agreements may cover the license of part, or all, of the Company’s patent portfolio. The contractual terms of the licensing agreements generally provide for payments over an extended period of time. For the licensing agreements with fixed royalty payments, the Company generally recognizes revenue from these arrangements as such amounts become due. For the licensing agreements with variable royalty payments which can be based on either a percentage of sales or number of units sold, the Company recognizes royalty revenues based on royalties reported by licensees during the quarter and when other revenue recognition criteria are met.
Contract revenue consists of license fees, engineering fees and service fees associated with integration of the Company’s technology solutions into its customers’ products. For development contracts related to licenses of its interface solutions that involve significant engineering and integration services, the Company generally recognizes revenue using the percentage of completion method. For all license and service agreements accounted for using the percentage-of-completion method, the Company determines progress to completion using input measures based upon contract costs incurred compared to the total costs including the remaining estimated cost to completion.

We support the Boards’ objectives to simplify the framework and the accounting guidance for revenue recognition and appreciate the Boards’ efforts in preparing an Exposure Draft. However, we do not believe the ED significantly improves the existing revenue recognition rules, especially in the area of recognition of royalty revenue. We believe and recommend the Boards to remove the provisions under paragraphs 38-40 to avoid aggressive revenue recognition (i.e. if the consideration is contingent, no revenue recognition until the amount is fixed or guaranteed). Otherwise, at a minimum, we believe and recommend the Boards to update the provisions under paragraph 38-40 to include the existence of cancellation rights and apply to all contracts (including ones with fixed consideration amounts). We also believe and recommend the Boards to modify paragraphs IG 31-39 to clarify the application of “obtaining control” for licenses and rights to use arrangements to state that it is most analogous to a continuing transfer of goods. We also believe and recommend the Boards to modify the implementation guidance for licenses and rights to use so that the pattern of revenue recognition for licensing arrangements follows the economics of the use of the rights and how the benefit is consumed by the licensee (i.e. over the license term, either ratably (if fixed payments) or as the units are sold (if variable payments)).

Our detail comments are as follows:

**Question 3:** Do you think that the proposed guidance in paragraphs 25–31 and related implementation guidance are sufficient for determining when control of a promised good or service has been transferred to a customer? If not, why? What additional guidance would you propose and why?

Comment/response to Question 3: The Company agrees with the Boards’ proposed guidance in paragraph 25-31 except for paragraph 28. Under paragraph 28, “if an entity retains some rights to an asset solely as protection against the customer’s failure to comply with the terms of the contract (for example, when an entity retains legal title as protection against the customer’s failure to pay), those rights are protective rights and do not preclude a customer from obtaining control of an asset.” While this paragraph may be appropriate for companies with transfer of physical products, it is not appropriate for us as we are a licensing company. Majority of our royalty revenue is derived from patent portfolio licensing agreements. Under these patent portfolio licensing agreements, our performance obligation is only to provide the rights to use (i.e. there is no physical delivery of products) under the terms of the contract. If the terms of the contract specifically indicate that no rights are given to the customer for each specific period if payment is not received, the
right to use for that specific period legally is not released to the customer until the payment is received, and we believe this reflects a substantive factor as to how control is transferred.

In addition, we disagree with the Boards’ application of the definition of “obtaining control” to licenses and rights to use in paragraphs IG 31-39. Though rights to use are generally transferred once at the beginning of the license term to the licensee, benefits are actually consumed by the licensee over time as the rights are used throughout the license term (i.e. the licensees use the intellectual property to create and ship products throughout the license term and the benefit arising from rights provided in the agreement). As paragraph 26 defines “obtaining control” as “the ability to direct the use of, and receive the benefit from”, we believe licensing of intellectual property is most analogous to a continuing transfer of goods so a recognition method based on the passage of time would be the most appropriate. In addition, we believe that if a company has the ongoing obligation to license any new “when-and-if-available” patents issued to an existing licensee during the license term as additional rights under the applicable agreement, then it is an indicator that it is similar to a continuing transfer of goods, which is currently not discussed in the Boards’ implementation guidance.

We believe and recommend to the Boards that paragraph 28 be deleted as it does not necessarily apply to all arrangements as noted above. We also believe and recommend the Boards to modify paragraphs IG 31-39 to clarify the application of “obtaining control” for licenses and rights to use arrangements to state that it is most analogous to a continuing transfer of goods.

**Question 4:** The Boards propose that if the amount of consideration is variable, an entity should recognize revenue from satisfying a performance obligation only if the transaction price can be reasonably estimated. Paragraph 38 proposes criteria that an entity should meet to be able to reasonably estimate the transaction price. Do you agree that an entity should recognize revenue on the basis of an estimated transaction price? If so, do you agree with the proposed criteria in paragraph 38? If not, what approach do you suggest for recognizing revenue when the transaction price is variable and why?

Comment/response to Question 4: Although the Company likes the Boards’ concept that if the amount of consideration is variable, an entity should recognize revenue from satisfying a performance obligation only if the transaction price can be reasonably estimated, the Company in general disagrees with the Boards’ proposal as it believes is impractical to implement. Firstly, the Company believes that if companies are required (and allowed) to apply significant judgment in the determination of what is reasonably estimable as well as making the estimates to recognize contingent considerations, the estimates would be subject to individual discretion and subjectivity and have questionable value to investors. This approach may lead to significant time for discussions between the reporting companies and their auditors as well as aggressive accounting in accelerating revenue upfront with potential significant reversals in later periods due to changes in estimates. This new model may lead to potential shareholder lawsuits if companies were being too aggressive and over-estimated revenue upfront. Secondly, the Boards’ proposal does not
address cancellation rights. The Company believes that in certain scenarios, the transaction price (i.e. license fees) even for fixed price arrangements may not be reasonably estimable where the license has cancellation rights at the option of the licensee. If a cancellation provision is at the licensee’s discretion and outside the control of the Company, the Company may not be able to provide reasonable estimates of revenue, even under a fixed payment contract. Past evidence of actual cancellation history cannot provide a basis for the estimates as the past is not necessarily an indication of future behavior.

As mentioned earlier, royalty revenue accounted for over 90% of our total revenue. Generally our licensing agreements have a term of five years and some of them provide our licensees the right to cancel their licenses for convenience. The amount of royalties due to us is highly susceptible to external factors such as volatility in the end-user market, risk of obsolescence of technology and any developments during pending legal proceedings, regardless of the actual significance or importance to the ultimate outcome. For example, if the licensee decides to discontinue the product lines that utilize our technologies, the licensee may terminate the license for convenience. In addition, the semiconductor industry is highly unpredictable as the unit shipment and selling prices can easily fluctuate by over 30%-40% from one year to another year. These uncertainties about the total amount of consideration will not be resolved until it is paid to the Company in each of the license periods, which can be up to five years or more from the date of the required estimate. This means that both our licensing agreements with fixed royalty amounts as well as our licensing agreements with variable royalty amounts are not reasonably estimable throughout the license term until the royalty report is provided to the Company or royalty amounts are paid to the Company.

For example, if a company has a patent license agreement with a customer, under which the customer licenses from the Company non-exclusive rights to certain patents and has agreed to pay the company cash amounts equal to $5.0 million per quarter for a term of five years. Though the agreement has a fixed contract amount of $100.0 million, there is no guarantee that the company will receive the entire $100.0 million total consideration amounts. If the licensee decides to discontinue the product lines that utilize our technologies, this licensee may cancel the contract at any time for convenience. Assume the probability-weighted amount of consideration after discounting for time value of money is $75.0 million and if the company were to record the $75.0 million as revenue on the first day of the license term (as rights to use are transferred to the licensee one time at the beginning of the license term) with a corresponding receivable and the licensee were to terminate the contract after the end of first year, the company would have to write off the receivable and reverse approximately $57.0 million revenue in the second year. The revenue recognition method of immediate recognition for licensing agreements with fixed consideration amounts will be too volatile and aggressive which could lead to incomparable and unreliable financial statements as well as exposures for potential shareholder lawsuits against the Company for misleading financial information, regardless of the merit of any such claims or allegations. Instead, if revenue is recognized in proximity to when the use of the technology arises, there would not be such volatility since revenue would be recognized in proportion to the term of the license and usage. From the perspective of a reader of the financial statements, the current ED does not improve the existing revenue recognition rules. Instead, it creates
significant volatility in revenue for each period, dissociates the financial statements from actual events and may lead the readers and the companies to use of non-GAAP measures to evaluate the financial performance of a company.

We believe the provisions under paragraphs 38-40 should be removed to avoid aggressive revenue recognition (i.e. if the consideration is contingent, no revenue recognition until the amount is fixed or guaranteed). Otherwise, at a minimum, we believe the provisions under paragraph 38-40 should be updated to include the existence of cancellation rights and apply to all contracts (including ones with fixed consideration amounts). We recommend the Boards to either remove the provisions under paragraphs 38-40 or modify them to address cancellation rights as well as allow them to be applied to contracts with fixed consideration amounts. We also recommend the Boards to include an example in the implementation guidance to show that agreements with cancellation rights for convenience will lead to conclusion that a company cannot reasonably estimate contingent revenues and does not recognize revenue upfront.

**Question 10:** The objective of the Boards’ proposed disclosure requirements is to help users of financial statements understand the amount, timing, and uncertainty of revenue and cash flows arising from contracts with customers. Do you think the proposed disclosure requirements will meet that objective? If not, why?

Comment/response to Question 10: The Company believes that the proposed disclosure requirements will result in overload of information in the footnotes that makes the financial statements unreadable to most readers. In addition, as mentioned above, the Company’s royalty revenue may be subject to significant external factors outside of the Company’s control, which may render the estimates to be unreliable and provide speculative value to investors as previously noted. As the Company is required to assign a probability-weighted transaction price to each of its licensing agreements with its customers, the requirement to disclose the amount, timing and uncertainty of revenue may lead to unfavorable future licensing terms with new licensees or existing licensees during renewals.

Currently, under the Critical Accounting Policies and Estimates disclosure, the Company discloses the general revenue recognition methodology on different types of agreements and revenue sources, including the types of services we provided to our customers, a general description of the obligation(s) to be performed, if any, as well as judgments used in the revenue recognition process. Meanwhile, majority of the new disclosure requirement on disaggregation of revenue is already disclosed in the financial statements through segment reporting requirements. Therefore, we believe that our current disclosure is sufficient for the users of the financial statements to understand the amount, timing, and uncertainty of revenue and cash flows arising from contracts with customers. Accordingly, we recommend to the Boards that disclosures should not be expanded beyond what is currently required.
**Question 11:** The Boards propose that an entity should disclose the amount of its remaining performance obligations and the expected timing of their satisfaction for contracts with an original duration expected to exceed one year. Do you agree with that proposed disclosure requirement? If not, what, if any, information do you think an entity should disclose about its remaining performance obligations?

Comment/response to Question 11: As mentioned above, the Company believes that the proposed disclosure requirements will result in overload of information in the footnotes that makes the financial statements unreadable to most readers. In addition, these extensive disclosures may release certain confidential business information as well as pricing structures to our competitors. For example, the new guidance requires an entity to disclose information about its performance obligations in contracts with customers, including a description of the goods or services the entity has promised to transfer. The Company works with customers on leading edge technologies in next generation products, and these projects are highly sensitive. The disclosure on the description of the goods or services to be performed may require that the Company identify the next generation products, which may disadvantage both the Company and its customers.

As mentioned above, we believe that our current disclosure is sufficient for the users of the financial statements to understand the amount, timing, and uncertainty of revenue and cash flows arising from contracts with customers, including our remaining performance obligations and the expected timing of the satisfaction. Accordingly, we recommend to the Boards that disclosures should not be expanded beyond what is currently required.

**Question 13:** Do you agree that an entity should apply the proposed guidance retrospectively (that is, as if the entity had always applied the proposed guidance to all contracts in existence during any reporting periods presented)? If not, why? Is there an alternative transition method that would preserve trend information about revenue but at a lower cost? If so, please explain the alternative and why you think it is better.

Comment/response to Question 13: No, we do not agree that the entity should apply the proposed guidance retrospectively. While we agree that trending information for financial statement users is important and the retrospective approach achieves this objective, the cost of accounting our transactions and licenses under two separate accounting standards (i.e. maintaining two sets of financial records) for a two-year period outweighs the benefits. The estimated incremental costs for accounting our transactions under two separate accounting standards will include the following:

- Additional manpower costs for developing and operating two revenue recognition processes;
- Additional manpower costs for modifying our existing accounting system so that it can record the same transaction under two separate accounting standards and hence maintaining two sets of books
- Additional manpower costs for implementing and testing the necessary SOX controls during the dual reporting periods
• Additional audit fees for auditing the same transaction twice during the dual reporting periods

We believe and recommend the new guidance be applied prospectively to new contracts signed after the effective date, similar to the transition method for EITF 08-01.

**Question 15:** The Boards propose that an entity should distinguish between the following types of product warranties:

(a) a warranty that provides a customer with coverage for latent defects in the product. This does not give rise to a performance obligation but requires an evaluation of whether the entity has satisfied its performance obligation to transfer the product specified in the contract.

(b) a warranty that provides a customer with coverage for faults that arise after the product is transferred to the customer. This gives rise to a performance obligation in addition to the performance obligation to transfer the product specified in the contract.

Do you agree with the proposed distinction between the types of product warranties? Do you agree with the proposed accounting for each type of product warranty? If not, how do you think an entity should account for product warranties and why?

Comment/response to Question 15: We do not agree with the proposed changes in product warranties. Though we agree with the Boards’ proposed new guidance on product warranties in principle, we believe it is impractical to implement as the Company and its customers do not, or cannot, distinguish whether the defect was latent or arose after the product is transferred to the customer. As a warranty that provides a customer with coverage for latent defects in the product will lead to a failed sale (i.e. no revenue until the latent defects are corrected), companies will generally no longer provide such warranty to their customers. Whenever there is a defect with the product, disputes may arise between a company and its customer in regards to whether the product defect was latent or arose after the product is transferred to the customer.

We believe and recommend that all types of product warranty be treated the same and that is, they give rise to a separate performance obligation so a portion of revenue (reflecting the value of the “stand-ready” obligation to repair or replace the product) is deferred until the performance obligation is satisfied.

**Question 16:** The Boards propose the following if a license is not considered to be a sale of intellectual property:

(a) if an entity grants a customer an exclusive license to use its intellectual property, it has a performance obligation to permit the use of its intellectual property and it satisfies that obligation over the term of the license; and
(b) if an entity grants a customer a nonexclusive license to use its intellectual property, it has a performance obligation to transfer the license and it satisfies that obligation when the customer is able to use and benefit from the license.

Do you agree that the pattern of revenue recognition should depend on whether the license is exclusive? Do you agree with the patterns of revenue recognition proposed by the Boards? Why or why not?

Comment/response to Question 16: We do not agree that the pattern of revenue recognition should depend on whether or not a license is exclusive. The seller’s obligations are the same in both exclusive and non-exclusive licenses (i.e., (1) to transfer ongoing rights to use during the term of the agreement and (2) continuing obligation to provide peaceful use of such rights) so there should not be any difference between the revenue recognition method for exclusive and non-exclusive licenses.

In regards to the appropriate revenue recognition method for licensing revenue, our comment is that although rights to use are generally transferred once at the beginning of the license term to the licensee and an entity does not have any remaining performance obligation in providing additional rights to use, the revenue recognition method of recognizing all amounts upfront as revenue is not consistent with the economics of the transaction/use of rights because the benefits are actually consumed by the licensee over time as the rights are used throughout the license term (i.e. shipments are made throughout the license term and the benefit arising from using the rights is to ship). The Company believes licensing of intellectual property is most analogous to a continuing transfer of goods so a recognition method based on the passage of time would be the most appropriate. In addition, if one looks at how a licensee accounts for royalty payments under licensing agreements, there is a significant discrepancy between the accounting treatment between a licensor and a licensee. At the beginning of the license term, the licensee does not record the entire amount of the contract as expenses so there would be a mismatch if the seller is required to recognize all revenue upfront while the licensee is allowed to record the royalty expense over time as the units are consumed and royalty payments are made.

In addition, as mentioned in the above, we believe that if a company has the ongoing obligation to license any new “when-and-if-available” patents issued to an existing licensee during the license term as additional rights under the applicable agreement, then it is an indicator that it is similar to a continuing transfer of goods, which is currently not discussed in the Boards’ implementation guidance.

We believe and recommend the Boards to modify paragraphs IG 31-39 to clarify the application of “obtaining control” for licenses and rights to use arrangements to state that it is most analogous to a continuing transfer of goods. We also believe and recommend the Boards to modify the implementation guidance for licenses and rights to use so that the pattern of revenue recognition for licensing arrangements follows the economics of the use of the rights and how the benefit is consumed by the licensee (i.e. over the license term, either ratably (if fixed payments) or as the units are sold (if variable payments)).
If you have any questions regarding our comments or require additional information, please contact us.

Very truly yours,

Satish Rishi
Senior Vice President, Finance and
Chief Financial Officer