

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**RAMBUS INC.,**  
*Appellant,*

v.

**INTERNATIONAL TRADE COMMISSION,**  
*Appellee,*

and

**NVIDIA CORPORATION,**  
*Intervenor.*

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2010-1366

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On appeal from the United States International Trade  
Commission in Investigation No. 337-TA-661.

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**RAMBUS INC.,**  
*Appellant,*

v.

**INTERNATIONAL TRADE COMMISSION,**  
*Appellee,*

and

**NVIDIA CORPORATION,**

*Intervenor.*

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2010 -1483

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On appeal from the United States International Trade Commission in Investigation No. 337-TA-661.

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**ON MOTION**

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Before GAJARSA, SCHALL, and MOORE, *Circuit Judges.*

SCHALL, *Circuit Judge.*

**ORDER**

NVIDIA Corporation moved for leave to intervene in 2010-1366 and moved for an extension of time to file a motion to intervene in 2010-1483. Separately, NVIDIA Corporation moved to dismiss 2010-1366. Rambus Inc. opposed. The International Trade Commission supported the motion to dismiss. NVIDIA Corporation subsequently filed a motion to withdraw its prior motion to dismiss 2010-1366 and filed a motion to consolidate 2010-1366 with 2010-1483.

In 2010-1366, Rambus appeals the International Trade Commission's March 25, 2010 determination that, inter alia, rejected Rambus' petition to vacate an Administrative Law Judge's order ordering Rambus to produce certain privileged documents. Rambus filed its notice of appeal on May 24, 2010. The ITC subsequently issued a final determination on July 26, 2010. Rambus appeals the final determination in appeal 2010-1483.

NVIDIA asserted in its motion to dismiss that the March 25 order is not an appealable determination because this court only has jurisdiction to review final determinations of the Commission. The Commission agreed with NVIDIA's argument. Rambus argued that the Commission's rejection of its petition to vacate the ALJ's order is an appealable final determination because the rejection was no longer under review by the Commission.

Under 19 U.S.C. § 1337(c), this court can only review Commission determinations that are "final determination *on the merits*, excluding or refusing to exclude articles from 'entry'". *Block v. U.S. Int'l Trade Comm'n*, 777 F.2d 1568, 1571 (Fed. Cir 1985) (emphasis in original). Because Rambus has not shown that 2010-1366 is an appeal from a final determination on the merits pursuant to § 1337(c), we conclude that appeal 2010-1366 is premature and we dismiss for lack of jurisdiction. Rambus can, of course, seek review of interlocutory rulings, if appropriate, in 2010-1483.

Accordingly,

IT IS ORDERED THAT:

(1) The motion for an extension of time to file a motion to intervene, and the motions to intervene, are granted. The revised official captions are reflected above.

(2) Appeal 2010-1366 is dismissed. Each side shall bear its own costs in 2010-1366.

(3) The motion to dismiss, the motions to consolidate, and the motion to withdraw the motion to dismiss are denied as moot.

FOR THE COURT

NOV 18 2010

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: J. Michael Jakes, Esq.  
Paul M. Bartkowski, Esq.  
Ruffin B. Cordell, Esq.

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**FILED**  
U.S. COURT OF APPEALS FOR  
THE FEDERAL CIRCUIT

NOV 18 2010

JAN HORBALY  
CLERK