

# The D.C. Circuit's Rambus Decision: A (Short-Lived?) Clarification of IP Disclosure Obligations in Standard Setting

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The [Antitrust](#) Practice Group has prepared a Client Advisory titled "The D.C. Circuit's Rambus Decision: A (Short-Lived?) Clarification of IP Disclosure Obligations in Standard Setting."

In *Rambus Inc. v. Federal Trade Commission*, the court held that the intentional nondisclosure of patent rights on technology eventually incorporated into an industry-wide standard, even if it prevents up-front royalty negotiations, does not harm competition. Consequently, it does not constitute a violation of the Sherman Act. *Rambus* is the most recent in a series of cases involving so-called "patent ambush" conduct, in which a firm participating in a standard setting proceeding fails to disclose relevant patent rights until after a standard has been adopted. The antitrust concern is that such nondisclosures prevent a standard setting organization (SSO) from making a fully informed decision regarding the merits and costs of the competing technologies until after "lock-in," when it is too late.

While the Rambus decision provides some momentary comfort for patent holders involved in standard setting, substantial uncertainty regarding the applicable legal rules remains. Parties engaged in standard setting efforts going forward should therefore consider that the Rambus clarification may be short-lived.