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# Patent Troll No More

## Rambus' GC boasts that the company has no litigation on its calendar.

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It wasn't long ago that the mere mention of the Silicon-Valley based company Rambus Inc. would trigger fear and loathing in the general counsel of the world's computer chip companies.

Corporate executives from Silicon Valley to South Korea who once recognized Rambus as a memory technology innovator came to view it as a legal nightmare. The company had spent at least 10 years fighting with competitors and customers, alleging infringement of some of its more than 1,000 patents. By the beginning of this decade, its entire business model seemed to revolve around patent litigation. Rambus' image became so tarnished, it suffered the ultimate insult: It was dubbed a patent troll.

But in 2013, the company changed course.

"Rambus has no pending litigation today," says company general counsel Jae Kim. "We realized that patent litigation as a business model wasn't working."

At a time when the need for patent reform continues to generate debate in boardrooms and in the halls of Congress, Rambus believes this is a good time to tell its story. It is a tale of a company that began by innovating and licensing transformational technology, shifted to monetizing its assets through patent litigation, and now is not only emphasizing innovation once again, but is also pushing for collaboration with other tech companies—even those it once clashed with in court.

Rambus' decision to change ?course did not come quickly or easily. And it was not done simply because the company's reputation as a ground-breaking Silicon Valley innovator had been supplanted by the derogatory designation "patent troll." The real impetus? The company was suffering financially.

The element of financial predictability, so important for a publicly traded company, was noticeably absent at Rambus because its revenue largely depended on successful litigation, which is episodic and does not reward winners with a steady flow of cash. The company's stock price had hit all-time lows and darted up and down, depending on the outcome of the lawsuit of the moment.

"Legal issues are always intertwined with business and finance," Kim says.

The turning point came in 2011. In May, the U.S. Court of Appeals for the Federal Circuit ruled that Rambus was wrong to shred hundreds of boxes of documents relevant to two patent infringement lawsuits involving Micron Technology Inc. and Hynix Semiconductor Inc. That ruling resulted in a dramatic decline in Rambus' stock price.

Six months later, Rambus suffered a major defeat in a $4 billion antitrust lawsuit in which it alleged that Micron and Hynix had colluded to fix memory chip prices and discourage the adoption of its technology. This loss caused a dramatic decline in the price of Rambus stock, resulting in the company losing about 60 percent of its market value in one day.

"Those were tough times," Kim says. "We had to downsize, and the atmosphere back then was like a morgue."

Rambus did claim some victories in its many court battles, even prevailing in a protracted fight with the Federal Trade Commission, which had accused it of antitrust violations. But the allegations didn't help instill investor confidence. Nor did the fact that the European Commission also launched antitrust investigations against Rambus.

"By 2012, there was a lot of uncertainty about the company's future, Kim says. "All the litigation was hurting us, and lucrative licenses with such companies as Samsung were expiring."

In 2013, the board brought in new management. Under the leadership of its new chief executive, Ron Black, the company began settling all of its outstanding patent litigation. It refocused attention on its products and emphasized the importance of collaborating with other technology companies, including its former rivals.

Analysts say Rambus' shift came none too soon, as the business model that heavily relied on litigation was not sustainable. "Rambus had nowhere else to go," says Shane Rau, a semiconductor analyst with IDC who has followed Rambus. "Win or lose, there was no more litigation to be had because there were no more players. If Rambus wanted to move forward and grow, it had to change."

Kim acknowledges that Rambus' change in strategy was in fact a growth strategy. It wanted to continue to design components for chips and license its patents, but it also wanted to collaborate with chipmakers and the larger systems that buy those chips. Indeed, Rau says Rambus will be a stronger company if it can extend its intellectual property and engineering expertise further down the value chain.

But before it could get there, Rambus would have to make it known in the industry that it was serious about traveling a different path. When Black came on board, the company still had outstanding litigation with some of the industry's big players. Its litigious decade not only affected its image, but also created trust issues with customers and partners.

"We clearly needed to resolve the pending litigation because these were the same companies we wanted to partner with," Kim says.

Needless to say, Rambus' overtures were met with skepticism. Its rivals had already spent millions on litigation, and their respective cases were nearing final judgment. Settle or not, they wouldn't have to spend much more money on litigation.

Rambus had to get creative. Through one-on-one conversations—carefully channeled conversations—usually with one individual on the business side and one in the legal department, Rambus confirmed that these companies would be open to collaborating, but not until Rambus came to the table with a reasonable settlement offer.

The company started negotiations with what it thought were reasonable market rates for its IP. This closed the gap considerably. "The amounts were a lot lower than any damages sought," Kim says. In 2013 Rambus settled with Hynix and Micron. And last year it reached a settlement with Nanya Technology Corp., bringing an end to all of its outstanding patent lawsuits.

"This milestone agreement with Nanya marks a new era at Rambus where we have no outstanding litigation and can focus 100 percent on working closely with customers to solve technology challenges," Black said in a statement at the time.

The fact that Rambus, once lumped in with patent trolls, has no pending litigation is no small feat—especially for a Silicon Valley-based company. Kim doesn't think Rambus ever truly qualified as a patent troll, as it always had a large research and development component and looked to innovate even in its most litigious period.

But it will nonetheless take time for Rambus to overcome its past. Kim says he is not naive enough to think litigation will never be necessary. But when and if it does arise, it's important, he says, for any company to conduct itself professionally and not engage in abusive litigation tactics.

"The ones that do so are the bad actors that deserve to be called trolls," he says.

Kim is not an IP lawyer by train-ing, although he stresses that he has worked in Silicon Valley for more than 15 years. "And in Silicon Valley," he says, "you have to have at least a working knowledge of IP law to understand the landscape and advise companies properly."

With the litigious era now past, he is happy he can now focus on other work—especially new licensing agreements and the company's new business ventures, which include a security component for chips to be used in mobile phones and other technology.

In June, Qualcomm Inc. entered into a licensing agreement with Rambus for the company's new security technologies, designed to protect integrated circuit systems on a chip.

Last year the company also entered into partnership agreements with Northwest Logic Inc. and Mobiveil Inc. "We knew of Rambus' reputation, and we were concerned because you don't want to shake a stick at a hornet's nest," says Brian Daellenbach, president of Northwest Logic. "But we heard them out, and we are convinced the old days are behind them."

Daellenbach says he believes Rambus wants to grow by bringing innovative products to the marketplace, and his company is excited about their mutually beneficial relationship.

"We need partners like them, and they need us," he says.

Kim says Rambus has also been in discussions with some of its former foes about collaborating and taking licenses for its new products, although he could not reveal details.

It remains to be seen whether the company's new business model and push to collaborate with chipmakers and the builders of systems will succeed.

One positive sign, according to Kim, is that Rambus' main investors are no longer day traders and those involved in arbitrage. More stable institutional investors now own Rambus shares, Kim says.

And inside the company, the mood has also changed. "The business side and engineering side of the company work together, and when you walk through the hallways of the company, people are energized," Kim says. "It no longer feels like a morgue."