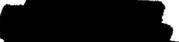
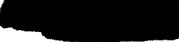


  
ATTORNEYS AT LAWTelephone:   
Facsimile: 

December 11, 2003

VIA EMAIL



Nancy Ovuka, Esq.  
Premerger Notification Office  
Bureau of Competition  
Federal Trade Commission  
Room 303  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580

Dear Ms. Ovuka:

Thank you for taking the time to speak with me this past Monday regarding my questions on the application of the Hart-Scott-Rodino Antitrust Improvements Act (the "HSR Act"). I am writing this letter to confirm the conclusion that Company X in the following fact situation would not have to file a Notification and Report Form for Certain Mergers and Acquisitions (the "Notification Form") pursuant to the HSR Act. The facts that we discussed are as follows:

- In 1998, Company X was granted an exclusive license to develop and commercialize a product for which Company Y held certain intellectual property and regulatory filing rights ("IP"). At the time, the size of the transaction did not exceed the statutory threshold, so no Notification Form was required or filed.
- In 2001, Company X granted an exclusive sublicense of the IP to Company Z, which gave Company Z exclusive rights to develop and commercialize the product. In connection with the grant of the exclusive sublicense, Company X and Company Z filed a Notification Form and received early termination of the HSR Act waiting period.
- Presently, Company X has agreed to purchase from Company Y the IP underlying the license. The purchase price for the IP will be in excess of \$50 million, and the size of person test is satisfied. As a result of the transfer, Company X will be entitled to royalty payments that would otherwise have been made to Company Y, but the exclusive license to develop and commercialize the product will remain with Company Z.

Although Company X is now seeking to take title to the IP, the exclusive license will remain with Company Z. As a result, it is my understanding based on our conversations that



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the transfer of the IP from Company Y to Company X will not require the filing of a Notification Form because a Notification Form for the exclusive sublicense to Company Z was previously filed and early termination was granted. In addition, although you and I did not discuss this, we believe that, unless an exemption applies, Company X and Company Z would have to file a Notification Form in the event that Company Z transfers the exclusive license back to Company X in the future and the notification threshold and other requirements are met.

Please let me know at your earliest convenience whether the conclusions in this letter correctly reflect our conversations and the view of the Premerger Notification Office of the Federal Trade Commission. I can be reached at the number listed above. Thank you again for your time and attention.

Sincerely,



For the Firm

12/11/03

Confirmed conclusion w/ writer. Beneficial ownership of the IP remains w/ Z, although X has acquired a stream of income. The transfer of the exclusive license from Z back to X would only be potentially reportable, if the transfer occurred prior to the expiration term set out in the agreement.

N. Ovuka

M. Verne concurs

