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Verne, B. Michael

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From: [REDACTED]  
Sent: Thursday, February 22, 2007 2:08 PM  
To: Verne, B. Michael  
Subject: HSR Question re: Licensing Transaction

Mike,

We spoke last October about a licensing transaction in which the grantor retained U.S. manufacturing rights but could not sell the products that it manufactured in the U.S. You confirmed that this would not constitute an exclusive license for HSR purposes because the grantor had retained manufacturing rights in the United States.

I have another transaction with nearly identical facts and wanted to confirm with you that the PNO's position has not changed. The facts are described below:

- \* Company X will in-license technology and will receive U.S. rights to develop, use, make, have made, offer for sale, sell, import, market, distribute and promote certain technology of Company Y, including patent rights and know how.
- \* Company Y will retain the non-exclusive right to manufacture and/or have manufactured the compound in the U.S. for use in certain research or development programs, and/or for sale and/or use solely in a territory outside of the U.S.
- \* Company Y will also retain the right to co-develop and co-promote the products that contain the licensed compound.

I would appreciate if you would confirm that this license would not be considered "exclusive" for HSR purposes and thus no HSR filing would be required.

Best regards,

[REDACTED]

[REDACTED]

I AGREE THIS IS NOT EXCLUSIVE

BM  
2/26/07

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