

Verne, B. Michael

801.2

From: [REDACTED]
Sent: Thursday, December 08, 2011 4:18 PM
To: Verne, B. Michael
Subject: Assignment of IP Rights

Dear Mike. I trust all is well. We wanted to confirm our analysis with respect to the treatment of intellectual property ("IP") rights in the fact pattern below.

1. Party A and B (each satisfies the size of persons threshold) are entering into a Joint Development Program Agreement ("Development Agreement") to pool their resources for the purpose of performing research and development of a certain new Device, which is different in interface and performance characteristics than anything currently existing on the market.

The parties will divide the IP associated with the device along certain lines that roughly accord with the future technology, R&D and business interests of each party. Each of Party A and B will assign to the other all of its right, title and interest in (a) certain existing IP of the party related to the Device and (b) any future IP jointly developed by the parties under the Development Agreement (with Party A assigning to B jointly developed process technology IP, and B assigning to A jointly developed design IP). However, each of Party A and B will continue to have the right to manufacture the Device. We could not find any informal opinion on point, but we believe that as each party will retain the right to manufacture the Device, the transaction should be treated as analogous to an exclusive license where the licensor retain the right to manufacture, and thus not an HSR reportable transaction.

2. The Development Agreement also provides that each of Party A and B will provide the other with a non-exclusive rights to certain IP, inclusive of the existing and future IP covered in (a) and (b), including the right to manufacture the Device. Of course this license is not reportable as the license is not exclusive and each party will have the right to manufacture the Device.

Let us know if need any additional information for purposes of the analysis.

Regards,

[REDACTED]

AGREE-NOTHING REPORTABLE
K. WALSH CONCURS.
Bm
12/8/11

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For information about this legend, go to [REDACTED]

[REDACTED]

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