

Verne, B. Michael

From: [REDACTED]
Sent: Wednesday, April 25, 2007 6:23 PM
To: Verne, B. Michael
Subject: RE: HSR Question

Thank you, Mike, for your help on this.

One followup question if I can.

Assume that a firm obtains a nonexclusive IP license (that is not reportable under the HSR Act) as well as an option to later acquire the patent. I understand it, the HSR analysis of the later acquisition of the patent would look only to consideration paid for the actual acquisition, rather than aggregating the amount previously paid for the nonexclusive license, because that nonexclusive license is not considered an asset for HSR purposes.

In this case please assume that the transaction is not designed as a device in avoidance. Rather, the nonexclusive licensee would exercise the option to acquire the patent only if necessary to avoid any dispute with third parties regarding its rights to enforce the patent.

Thank you again for your help on this.

Best regards,

AGREE - NO AGGREGATION
WOULD BE REQUIRED
BM
4/25/07

"Verne, B.
Michael"
<MVERNE@ftc.gov To
> [REDACTED]

cc

04/20/2007 Subject
02:11 PM RE: HSR Question

I agree on all three points