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Sent: Wednesday, September 30, 2009 1:16 PM
To: Verne, B. Michael
Subject: Aggregation of separate transaction involving ultimate parent entity

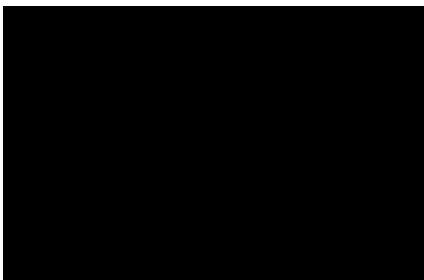
I have a few questions regarding the following situation:

Mr. A (a natural person) is the ultimate parent entity of Seller. In transaction #1, Seller is selling its assets to Buyer in a transaction that, due to its size and the size of the parties involved, would require the filing of a notification and report form. At the same time, in transaction #2, the same Buyer will be acquiring trademarks from another entity, "TM Holder". The ultimate parent entities of TM Holder are Mr. A and Mr. B, who each hold 50% of TM Holder. Taken alone, the size of transaction #2 would not be large enough to require filing under the HSR Act.

Questions:

1. Would transaction #2 need to be aggregated with transaction #1, and thus be included in the notification and report form filed in respect of transaction #1?
2. If the answer to question 1 above is yes, does Mr. B become a "filing person" since he is an ultimate parent entity of TM Holder? (Mr. B is not the ultimate parent entity of Seller, so would not be a filing person in respect of transaction #1; however, he does hold a minority interest in Seller.) Would he just be listed as an ultimate parent entity in Item 3, or would he be required to file his own notification and report form?
3. TM Holder was formed in 2009 for the purpose of acquiring the trademarks in question as well as some existing licenses relating to those trademarks. (It did not acquire the entire business of the prior owner of the trademarks.) If transaction #2 is reportable on the HSR form together with transaction #1, would the filing person be responsible for providing revenue information with respect to those trademarks under Items 5 and 7? What do we do if we don't know the revenues from 2002 or the most recently fiscal year because we did not acquire the ongoing concern but rather simply acquired the trademarks and limited related assets?

Thank you very much for your guidance.



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The two transactions would be aggregated in Buyer's acquisition of Seller's assets and the trademarks held by TM Holder from Mr. A. Mr. B is not an acquired person with respect to Seller's assets and the TM Holder on its own does not satisfy the size-of-transaction test. Filings would be Buyer as an acquiring person and Mr. A as an acquired person. No filing is required from Mr. B and he does not need to be listed in Item 3. If you don't have the 2002 revenues attributable to the trademarks, you don't need to report them. You should be able to estimate the most recent year revenues based on year to date revenues since the acquisition.

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