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May 7, 1996

BY FAX (202) 326-2624 AND MAIL

Hy David Rubenstein, Esq.
Premerger Notification Office
Bureau of Competition
Federal Trade Commission
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Formation of Partnership

Dear Hy:

I am writing to confirm the substance of our conversation on May 3, 1996 when you told me that the formation of the partnership described below is exempt from the reporting requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

Companies A and B have each independently developed separate technologies. Through an existing Joint Development Agreement, Companies A and B developed technologies that combine their respective technologies ("Combined Technology"). Companies A and B propose to enter into a joint venture that will further develop and license their respective technologies and the Combined Technology, and also sell certain components for use with those technologies.

Companies A and B will form this joint venture as a partnership (the "Partnership"). As part of the formation of the Partnership, Companies A and B will each license to the Partnership their respective technologies and their respective interests in the Combined Technology. The Partnership will then sublicense all the technology and sell certain components manufactured for the Partnership related to the technology. Companies A and B each will enter into an agreement with the Partnership pursuant to which the Partnership will pay the partners for certain administrative services and services related to technical development.



release ...
act.

[REDACTED]

Hy David Rubenstein
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[REDACTED]

For tax reasons, the technology licenses from the partners to the Partnership will not be royalty-free. Rather, the income stream of the Partnership will be split between royalties and partnership distributions. Royalties will be paid to Companies A and B at a fair market royalty rate; the remainder of the Partnership income will be distributed to the partners as partnership distributions.

You should assume for purposes of analysis that the licenses from Companies A and B to the Partnership are "exclusive", at least as defined by the Premerger Notification Office. You should also assume that the value of each license exceeds \$15 million and all size-of-person tests are satisfied.

I understand from our conversation that the formation of the Partnership is exempt, consistent with the long-standing position of the Premerger Notification Office. The fact that the contribution of the partners to the Partnership consists of a royalty-bearing technology license does not transform an otherwise exempt formation of the Partnership into a reportable event.

Because Companies A and B intend to rely on your advice as summarized above, I would appreciate hearing from you as soon as practicable if I have misunderstood the advice or mischaracterized it.

As always, I am grateful for your assistance.

Sincerely,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]