

7A(c)(1); 802.1(a)

[REDACTED]

February 3, 1994

VIA HAND DELIVERY

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Premerger Notification Office  
Bureau of Competition  
Federal Trade Commission

FEB 3 1994  
FEDERAL TRADE COMMISSION

Washington, D.C. 20500

Re: The Definition of "Realty" for Purposes of  
15 U.S.C. § 18 A(c)(1) and 16 C.F.R. § 802.1

Dear Dick:

I am writing on behalf of [REDACTED] to

The Building

CONSTRUCTION OF THE [REDACTED] THE BUILDING CONSISTS OF ABOUT [REDACTED]  
[REDACTED] [REDACTED] and the [REDACTED]

[REDACTED] was constructed in [REDACTED]. This [REDACTED] has never been used or generated any revenues. Indeed, it contains no productive equipment.

While the [REDACTED] was designed to be a class one, [REDACTED] (e.g., its columns are positioned to minimize vibration), it was never completed, much less had the other capabilities and capacity to [REDACTED]. The building has utilities, water and air conditioning; but many additional steps would have to be taken to qualify it as a class one, clean [REDACTED]. For example, [REDACTED] would have to install a deionized water system, special [REDACTED].

[REDACTED]

[REDACTED]

For these and other reasons, we do not believe that the [REDACTED] could be fairly

[REDACTED]

the dynamic technology and production process for [REDACTED] the limited internal partitions currently in the [REDACTED] will have to be removed and repositioned to produce current generation [REDACTED]. Finally, there are a number of other [REDACTED] around the country.

## II. The Proposed Transaction

[REDACTED]

[REDACTED]

the fact that the [REDACTED] was originally designed for production processes and products which

[REDACTED]

In addition to this restoration and redesign, [REDACTED] will need to purchase all of the requisite equipment [REDACTED]. In doing so, [REDACTED] will order all of its own equipment, rather than taking an assignment of any of B's purchase orders (assuming B ever had, much less still has, any such contracts). [REDACTED] estimates that this equipment will cost an additional \$50-100 million.

## III. Applicability of the Realty Exemption

I understand from our recent conversations, not to mention our on-going dialogue over the years, that we all agree that the [REDACTED] is a "nonproductive asset" and thus "realty"

importantly, the [REDACTED] does not currently generate any revenues, nor to the best of my knowledge has it ever done so. Second, the [REDACTED] is not merely a turnkey facility. Rather,

[REDACTED]

Finally, the whole [REDACTED] was not "uniquely" designed for specific equipment, which obviates

[REDACTED]

[REDACTED]

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IV. Conclusion

For the aforementioned sufficient reasons, the [REDACTED] is a nonproductive asset and thus realty for purposes of the exemptions contained in 15 U.S.C. § 18A(c)(1) and 16 C.F.R. § 802.1. As a result [REDACTED] and R need not comply with the reporting and waiting

[REDACTED] and the proposed transaction is not in the ordinary course of their business.

Kindly contact me at your convenience to confirm that you and John still concur in this analysis and conclusion.

Very truly yours,

[REDACTED]

2/18/94 - advised author of letter that, based on the facts presented, ~~no~~ no filing need be made for the sale and purchase of the [REDACTED]

PR. O. J. A.