

## MERGERS AND ACQUISITIONS

Hoge Fenton serves as trusted advisor to companies at all stages of development in a variety of traditional and emerging industries. Our clients rely on the extensive experience of our M&A team to guide them through what is, for many, one of the most important and complex business transactions: the purchase or sale of a business.

Whether the transaction involves a purchase, sale, reorganization, forward merger, reverse merger, restructuring or leveraged buyout, the deal lawyers on our team bring the experience and specialized knowledge to manage each step of the process efficiently and effectively. We employ an integrated approach to doing M&A deals, calling upon the expertise of our colleagues in other practice areas — employment, intellectual property, and real estate, for example — to ensure superior handling of all legal aspects of our transactions. We also work closely with our clients and their other professional advisors, such as investment bankers, brokers, CPAs, and lenders, to develop long term strategies for their businesses where the ultimate goal may be a merger or other acquisition.

### **The typical merger or acquisition may involve the following issues:**

#### **Technology Transactions**

Unlike most law firms, our attorneys have had business experience of their own in various industries, ranging from service industries to semiconductor, software and other technology industries. In today's world of complex business transactions, we draft and negotiate technology license agreements, wafer supply agreements, distribution agreements, co-marketing agreements and other agreements that form the basis of operating a global business. These ancillary agreements are often the most heavily negotiated and hotly contested, not only because they involve substantial revenue opportunities or valuable technologies, but also because these agreements govern the post-closing relationship between the buyer and the seller. Hoge Fenton does not abandon its clients at the closing, but is there to support the client in its post-closing transition or integration process and advises on the implementation and enforcement of these ancillary agreements, including negotiation of amendments or supplements, or representing the client in post-closing disputes.

#### **Intellectual Property**

Intellectual property, such as patents, trade secrets, copyrights and trademarks, are usually a company's most valuable assets and of great significance for both buyer and seller in an M&A transaction. Careful and thorough IP due diligence, therefore, is paramount. Our experienced IP

professionals assist clients with pre-transaction IP due diligence, carefully and thoroughly evaluating, protecting, policing, and enforcing rights in and leveraging all company IP, both in the U.S. and abroad. During the transaction, we confirm application, registration, maintenance and renewal status, and thoroughly analyze all agreements that affect the creation, ownership and transferability of IP rights, including licensing agreements, development agreements, confidentiality agreements, and joint venture agreements. We also confirm effective assignments contained in invention assignments, employee agreements, and contracts with independent contractors; determine whether IP assets are encumbered by liens or other security interests; and inquire into threatened or pending claims of infringement or misappropriation of trade secrets.

Our knowledgeable team also assists clients, on either the seller side or the buyer side, in pre-transaction due diligence and risk management with respect to privacy and data security. Many businesses create, process and store all kinds of data containing personal information about individuals. We advise our business clients on all aspects of compliance with U.S. state and federal laws and international laws that regulate the handling of such information, including the EU Personal Data Directive and the General Data Protection Regulation.

## **Tax**

We have very experienced tax attorneys who have personally been involved in all facets of domestic and international M&A transactions. Not only are they well-credentialed (CPA and LL.M.), they have first-hand knowledge of what it takes to solve the complex tax issues in mergers and acquisitions favorably for our clients. There is no substitute for experience and an admirable track record. Our tax attorneys pride themselves on sound, creative and sustainable tax solutions that not only withstand regulatory scrutiny but also enhance the short and long term benefits of the deal for our clients.

## **Employment and Employee Benefits**

Hoge Fenton has substantial experience drafting, advising on, and litigating the un/enforceability of non-competition and non-solicitation agreements, evaluating the effectiveness of pre-existing proprietary and confidential information agreements, and defending and prosecuting trade secret misappropriation claims. Our attorneys also assist with the negotiation and structuring of key employee retention agreements, including change of control provisions, executive compensation agreements, independent consulting arrangements (including those related to an acquired company's personnel), and severance packages and the negotiation and termination of union relationships. We also provide guidance to employers through workforce reductions, mass layoffs, and plant closings, including through preparation of WARN and Cal WARN notifications. Our attorneys also represent clients in civil and administrative actions pertaining to wage and hour disputes and claims pertaining to allegations of wrongful termination, discrimination, harassment, and retaliation.

## **Real Estate and Environmental Issues**

When a business is acquired or sold, real estate and facilities often weigh heavily on the balance sheet. We get involved in the early stages of a deal, advising buyers and sellers in pre-transaction due diligence and planning, including portfolio assessment and strategy. Throughout the course of the transaction, our knowledgeable team of professionals works with clients who are buying, selling, leasing, financing, and building out real estate for their commercial and manufacturing needs by

advising, negotiating, drafting and reviewing core documents. Our expertise also includes all aspects of environmental compliance, investigation and remediation. And, after the transaction closes, we often remain involved to help with integration and implementation. Our clients rely on our deep local knowledge and connections, and our significant cross-border experience.

## Primary Contact

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## Related Attorneys

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