

TALENT — RETAINING THE KEY INDIVIDUALS

05 March 2019 | Global
Legal Briefings

The value of innovative technology can quickly diminish without the continued involvement of the individuals who created it

The legal challenges around acquiring innovative technology, such as intellectual property ownership and cybersecurity, are well known to dealmakers. But buyers are also recognising the crucial role that the individuals behind the technology play on a successful deal.

Securing the buy-in of the innovators or those who understand the technology became an essential part of the M&A process in 2018 – from deal origination through to integration.

In the year ahead, it will be important to identify at an early stage any key individuals needed for the transition period and for the longer term. Traditional deal mechanisms to incentivise management and key employees, including earn outs and bonus structures, should be discussed early on.

These mechanisms can be complex and heavily negotiated but the buyer should be less concerned about obtaining "buyer-friendly" arrangements and more focused on whether the incentive arrangements operate in a way that genuinely motivates the individuals concerned and aligns their interests with the company's operational targets and objectives. Corporates are showing more willingness to learn from private equity management incentive plan techniques, and more creativity in crafting bespoke incentive solutions within a corporate framework.

Cultural differences can of course become a major obstacle to any successful M&A integration process but they are particularly pertinent in tech acquisitions where a buyer's more "corporate" culture can stifle a young technology business. As corporates seek to collaborate with such individuals, full acquisition is not always the preferred solution. The rise of corporate venture capital similarly demonstrates the appetite of corporates for alternative ways to partner on opportunities in new technologies and new markets.

" We have seen an increased focus on talent acquisition and the use of legal tools to create a culture where key individuals are motivated, incentivised and empowered. This can be the key to a successful tech acquisition."

Tech acquisitions by non-tech companies in 2018

- AB InBev's acquisition of WeissBeerger, a developer of analytic solutions that allows them to track beverage consumption in real time in any on-premise account
- L'Oréal's acquisition of ModiFace Inc., an augmented reality and artificial intelligence company
- Toyota's acquisition of a stake in Grab, a technology company that offers ride-hailing and logistics services through its app

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KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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