

Simmons & Simmons Digital Day

M&A, strategic investments
and refocussing of
companies in a digital world

How we see Tech M&A

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Agenda

- Tech M&A – different transaction types
- Tech M&A – transaction specifics
- Tech M&A – general aspects
- Part of the solution: due diligence
- Part of the solution: understanding the market – tailoring the deal structure and documentation process
- New demands on advisors

Tech M&A – different transaction types

- Strategic Industry 4.0 deals
- Transformational transactions – Outsourcing transactions
- Start-up and venture
- Digital transformation – new approaches
- Telecom transactions/ Infrastructure

Tech M&A – transaction specifics

- Strategic “Industry 4.0” deals
 - Tesla - Grohmann
 - Kuka

- Transformational transactions – Outsourcing transactions
 - Avoiding disruption
 - Off-shoring in times of growing protectionism...
 - Long-term partnerships vs. rapid technology shifts

Tech M&A – transaction specifics

- Start-up and venture
 - Integration risks – the “culture clash”
 - Missing alignment of interests of investor and start-up
 - FinTec M&A – regulatory risks
 - MedTec M&A – new MDR and IVDR at the doorstep
 - The over complexity issue
 - Hands-on
 - Standard documents
 - Cost and risk sharing
 - Cyber risks, tech fraud and business model fraud

Tech M&A – transaction specifics

- Digital transformation – how to approach it
 - Build or buy
 - My own incubator/ accelerator
 - Start-up as a service
 - Structured vs. opportunity-based approach

- Telecom transactions/ Infrastructure
 - Need for investment in infrastructure (fiber and mobile)
 - Financing investment under difficult market conditions
 - Decreasing sales/ prices vs. increased usage
 - Impact of convergence – content + delivery/ service

Tech M&A – general aspects

- Business models under constant pressure for innovation
- Sector convergence
- New technology
- PE focus on technology?
- Increased relevance of IT/ IP law, data protection, HR
- To late for deals?

Part of the solution: due diligence

- Legal IT DD is of imminent importance across all sectors – here are some key aspects:
 - Does the target own all rights to use and exploit the software?
 - In case of individually developed software: How expensive was the development? Have all rights been transferred/ assigned to the target? Does the software involve any open source software components – if yes, check the applicable licence terms
 - In case of rights of use only – exclusivity, yes or no? Terms of the licence and fee regime
 - Software-as-a-Service (SaaS). Who is the software provider? Where does the hosting take place? Is cross-border data transfer involved? System availability? Exit-Management?
 - Data protection compliance

Part of the solution: due diligence

- Tech IT DD
 - Operations
 - Business IT
 - Business model evaluation
 - Valuation

- Tech IT DD approach depends on business model
 - Traditional business: IT = support function for business
 - Digital business: IT = the core product
 - And those who are in between

Part of the solution: understanding the digitalized world – tailoring the deal structure and documentation process

- Legal IT DD team to understand business model and to clarify likely potential legal impact to general DD team
- Specific know-how has to be inherent to the legal team – but in combination with first class legal M&A expertise
- Addressing the over complexity – under complexity issue
- Team adjustable to size and type of transaction
- Legal IT DD team to communicate and to understand DD input from Tech and Commercial DD to identify risk areas
- Transitional Service Agreements (TSA) to cover time periods required to separate IT functions in carve-out deals

Part of the solution: understanding the digitalized world – new demands on legal advisors

- Shift in relevant assets
 - IT/ IP, Software
 - Employees, leadership team/ founders
- FinTec/ InsurTec/ MedTec M&A: additional level of regulatory know-how required
- Use of legal tech
 - Optimization of the value chain
 - Support to deliver services efficiently
 - Increased pace
- Ihre Fragen!



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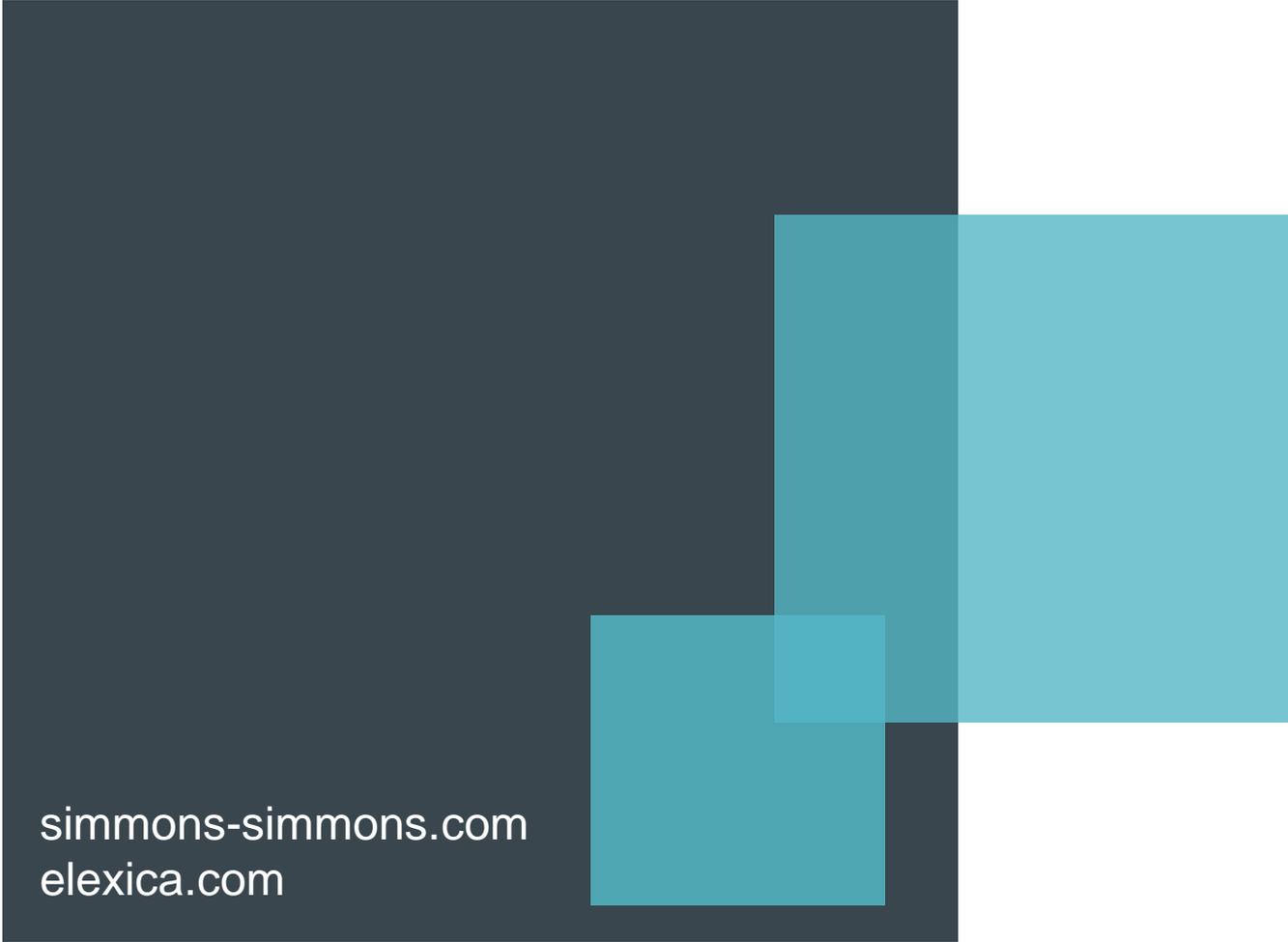
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