

The Impact of Corporate Structure Change on Intellectual Property

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Outline

- Strategic Considerations
- Asset-Related Issues
- Employee-Related Issues
- Third Party Issues
- Payment Issues
- International Issues
- Governmental Funding Issues
- Post-Closing Considerations
- Practice Points

Strategic Considerations

- When should a deal be a license, asset purchase, or equity purchase?
  - License
    - Is it better to acquire or license the asset?
    - What does the acquirer actually need?
  - Asset purchase
    - How will the parties share or separate development activities?
    - Is there a plan to transition services, such as supply and manufacturing?
    - Who will get what rights in a noncompete?
    - Are the target's material contracts assignable in an asset purchase?
  - Equity purchase
    - What liabilities will the acquirer be taking on?

Strategic Considerations

- What content is transferred in the deal?
  - Is the target also supplying support, such as know-how?
- Is a noncompetition/nonsolicitation agreement included?
  - Considerations in the semiconductor industry
- What will be the scope of due diligence for the deal?
  - When is heightened due diligence important?
  - What should heightened due diligence include?
- How do these factors change when one party is a small company and the other is large?
  - How does it change when both are small? When both are large?

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