

Putting the right spin on the art of the deal

By Jennifer Brown

Category: Working with External Counsel

Department size: Small

Company: Spin Master Corp.



Jeffrey Cohen, managing partner, Christopher Harrs, executive vice president and general counsel, corporate secretary, Spin Master Corp., Glen Eddie, partner, Torkin Manes LLP.

If you were a kid in the 1960s or you have children today, you'll know the toy brands of Spin Master Corp., a Canadian company that has been in serial acquisition mode in the last few years.

With well-known brands such as Etch A Sketch, Meccano, Air Hogs, Hatchimals and PAW Patrol, Spin Master has grown from a single product toy company into a global and diversified multi-media children's entertainment company.

From its original three-person operation, it has expanded to employ more than 1,000 people globally, with a catalogue of toy and children's entertainment brands that are recognized around the globe.

In May 2016, Spin Master completed its acquisition of Sago Sago Toys Inc. (Sago Mini), Toca Boca AB and Toca Boca Inc. (together, Toca Boca) from the Sweden-based Bonnier Group. Toca Boca is one of the top children's app companies in the world with five of the top 10 apps on the iTunes store and 15 million unique visitors a month.

"These opportunities don't come around very often and in our industry we're seeing more and more kids migrate to digital media and the online world and mobile applications," says Spin Master's general counsel and executive vice president, Christopher Harrs. "We felt as a company it was very important to grab on to this and we acted quickly to seize the opportunity. As our CEO loves to say, time kills deals and that's the mantra we operate under."

Spin Master had never purchased or done diligence on what is essentially a software

company. "We needed to lean on our external counsel at Torkin Manes as to what to look for in due diligence on software such as looking at bugs, at where it's hosted and a raft of other risk analysis issues we were not used to looking at," Harrs says.

The deal was noteworthy for its complexity and the speed at which it was negotiated and completed, which lawyers at Torkin Manes say is attributed to Harr's approach. A deal that would usually take three months to finalize was completed in three weeks. "We felt we needed to act quickly if we were going to obtain the prize," says Harrs.

Spin Master's ability to meet the Bonnier Group's strict timelines was a critical factor in its successful pitch for the company.

The company has completed five acquisitions since its IPO in July 2015. Given the volume of deals, it is critical that Harrs and his four-person legal department develop efficiencies.

"One of the problems of doing a deal quickly is due diligence always takes up a considerable amount of time. This time we negotiated the long-form agreement in tandem with the due diligence and created an acquisition/due diligence team early on," he says. "There has to be a degree of comfort and trust and Torkin Manes and Jeff Cohen have been outside counsel from the beginning. Jeff picks the right team to staff our deals. It makes it easier to allow them to

move issues forward."

Spin Master also contracted with KPMG to do a "deep dive" into the financials and look at an appropriate working capital number to assume on closing.

Pillsbury LLP was U.S. outside counsel to Spin Master as was Phillips Nizer LLP. DLA Piper LLP was on for the Bonnier Group.

"The reason this deal went so quickly was to have external expertise right off the bat helping us do all the vetting and negotiation and due diligence as required. I'm not shopping around for external counsel," says Harrs.

Harrs has also fine-tuned the due diligence process within the legal department. Co-operating seamlessly with the company's 10-to-15-person due diligence team, the company's in-house and external lawyers are able to review a transaction and identify any liability issues quickly with precision. As the lawyers are engaged early in the process, they are able to simultaneously perform due diligence while drafting and negotiating a purchase agreement that reflects that due diligence "in real time."

The value of both of these measures was demonstrated during the Sago Mini and Toca Boca acquisition. The deal involved an extremely tight time frame and multiple jurisdictions, it also presented a challenge in the form of evaluating the business model and value of three separate yet integrated corporate entities engaged in a new-economy business. ■