



TOPE ADEBAYO LP

# THE CASE OF TWITTER'S CHANGE TO 'X' - MAXIMIZING BRAND VALUE AND TRADEMARKS IN M&A TRANSACTIONS.



# The Case of Twitter's Change to 'X'- Maximizing Brand Value and Trademarks in M&A Transactions



## INTRODUCTION

One of the key drivers of M&A activities in today's economy is innovation and brand value.<sup>1</sup> In 2020, 90% of the S&P 500 companies' value is attributed to intangible assets, highlighting the tremendous impact they command.<sup>2</sup> A strong brand can be an important advantage in the M&A process. It gives all stakeholders an understanding of the company they are dealing with, highlighting the culture and identity of the organization.<sup>3</sup> A well-articulated brand conveys the company's unique value proposition, thereby facilitating the task of identifying strengths, weaknesses, and areas of synergies between merged companies.<sup>4</sup> This information helps guide negotiations and smoothens the journey through the M&A process.<sup>5</sup> These actions, signals effort by the company to strengthen their positions, extend their reach, diversify their offerings, or even reinvent themselves. Thus, trademarks and brands are quite valuable. They serve as a

significant asset for any enterprise, particularly in the modern, highly competitive, and brand-centric market landscape.<sup>6</sup> They play a vital role in fortifying brand identity and guarding against counterfeit enterprises, hence their increasing prominence during merger and acquisition due diligence.<sup>7</sup>

As a merger process unfolds, businesses often experience disruption, with pressure from management, and customers often questioning the supposed benefits of the deal.<sup>8</sup> Once the deal, however, closes, the initial wave of excitement often subsides, giving way to the unnerving prospect of integration.<sup>9</sup> In this case, a valuable brand could either serve as a unifying force or could create a difference of opinion in brand acceptance.<sup>10</sup>

The latest rebranding of the tech titan Twitter to 'X' emphasizes the significance of trademarks and brands. Using Twitter's name change as a backdrop, this article examines the relationship between brand value, trademarks, and their significance in M&A negotiations. The goal is to understand how management's handling of brand value and trademarks during M&A negotiations might potentially decide a company's future direction, both in perception and actuality.

## The Case of Twitter's Change to 'X' - Maximizing Brand Value and Trademarks in M&A Transactions



### BRAND VALUE AND TRADEMARKS

Brand value, also known as brand equity, is an important component of a company's valuation. It consists of a number of components, including brand awareness, brand loyalty, perceived quality, and brand associations, all of which contribute to the overall economic value of the brand name.<sup>11</sup>

Trademarks, on the other hand, are the legal protections given to the names, logos, symbols, phrases, or a combination of these that distinguish one brand from others.<sup>12</sup> They serve an important role in eliminating market confusion, ensuring a brand's uniqueness and recognizability, and legally protecting a brand's competitive position as the intangible embodiment of brand value.

A registered trademark increases the value of a brand by acting as a stand-alone asset. With the passage of time, the financial and monetary value of a trademark rises.<sup>13</sup> This increase in value is not simply the result of time but is directly related to the reputation

and recognition a company acquires.<sup>14</sup> As a company grows, innovates, and establishes a strong customer base, it gradually acquires a reputation. This reputation raises the perceived market worth of the trademark. The goodwill associated with a well-known and respected trademark can significantly improve the value of a company.

Trademarks play an increasingly important function in an increasingly digital society. Trademarks are becoming the visual and cognitive anchors that consumers identify and link with a brand's promise as they engage more with brands online. Twitter's bird logo, for example, has become one of the most recognizable symbols in the digital domain, signifying a platform for real-time information sharing.<sup>15</sup> In a broad sense, brand value and trademarks are intrinsically linked. While brand value quantifies the economic importance of a brand, trademarks safeguard that value from being eroded or misappropriated by competitors. Together, they account for a sizable chunk of a company's value, particularly in industries such as technology,

## The Case of Twitter's Change to 'X' - Maximizing Brand Value and Trademarks in M&A Transactions



where intangible assets frequently outnumber tangible assets. As a result, they play an important role in M&A negotiations and valuation.

### BRAND VALUE, TRADEMARKS, AND M&AS

During M&As, the acquiring business frequently confronts the issue of whether to preserve, merge, or change the acquired brand and its trademarks. The decision has a substantial impact on the brand's perceived value and may have an impact on consumer loyalty and market position. A successful M&A often requires the seamless integration of both brands to guarantee that the new organization optimizes the value obtained from the merger. When two companies decide to merge or when one acquires the other, the brand value and trademarks of the acquired entity become strategic assets. The acquirer must navigate the tough decision of deciding whether to keep the existing brand and its trademarks, merge the brands, or create a completely new brand.

This selection can have a significant impact on the new organization's perceived value, current consumer loyalty, and market position. The importance of a brand's value extends beyond influencing buyers' purchasing decisions. Increasing its value during the M&A process through smart and logical integration can help to consolidate the brand's worth post-merger.<sup>15</sup> This strategy

has the potential to increase the overall value of the merger and strengthen its long-term viability.<sup>17</sup>

To illustrate, when Disney acquired Pixar in 2006, it chose to keep the Pixar brand alive due to its significant brand value and loyal customer base.<sup>18</sup> The Pixar name and logo were associated with high-quality, innovative, and successful animated films, a unique brand identity that Disney did not want to dissolve.<sup>19</sup> This decision to maintain both brands separately allowed Disney to leverage Pixar's established brand value and its associated trademarks. It also avoided the potential alienation of Pixar's fanbase and employees, which could have had a negative impact on future projects.

Similarly, in 2014, Facebook's (now Meta) acquisition of WhatsApp provides another insightful example.<sup>20</sup> Despite the acquisition, Facebook chose to retain the WhatsApp brand, owing to its strong user base and distinct brand value.<sup>21</sup> This decision not only protected the app's 600 million active users pre-acquisition but also allowed Facebook to tap into markets where WhatsApp was more popular.<sup>22</sup> Here, the trademark served as a strategic asset, enabling the newly merged entity to reap benefits from the significant brand value associated with WhatsApp.

Contrastingly, there have been instances where companies chose to rebrand post-

## The Case of Twitter's Change to 'X' - Maximizing Brand Value and Trademarks in M&A Transactions



M&A. For instance, the merger of United and Continental Airlines in 2010 led to the consolidation of the two brands under the 'United' name, albeit with Continental's logo.<sup>23</sup> This decision allowed the new entity to leverage the combined brand value and recognition of both airlines while reducing the potential confusion and brand dilution that could occur with two separate brands.

In each of these cases, careful consideration of brand value and trademarks played a critical role in the strategic decision-making process during M&A activities. The way these intangible assets are managed can significantly influence customer perceptions, market position, and ultimately, the success or failure of the M&A. Therefore, a comprehensive understanding of these elements is fundamental for any company planning to engage in M&A activities.

A robust and well-managed brand doesn't just enhance monetary value, it also serves as

a vital tool to streamline the integration process when companies merge or get acquired. Brands assume a pivotal role at various stages of M&A activities: prior to the transaction, during the consolidation, and following the completion of the acquisition. An illuminating case study is Amazon's acquisition of Whole Foods in 2017. The \$13 billion price tag for the acquisition was dominated not by the tangible assets of Whole Foods, but by a substantial amount allocated to goodwill, nearly 70% of the total cost.<sup>24</sup> This substantial emphasis on goodwill implies that Amazon was investing more in the anticipated future growth of Whole Foods than in its existing assets.

However, it's crucial to differentiate between the concepts of brand and goodwill. Although they're closely linked, they're not interchangeable. A brand refers to the unique identity, reputation, and promise that a company makes to its customers, while goodwill is a measure of the intangible value a company has accrued, including reputation, customer loyalty, and other non-physical assets.<sup>25</sup> Therefore, while they are distinct concepts, both brand and goodwill play interconnected roles in the world of M&As. A strong brand helps boost goodwill, which in turn, can enhance a company's overall market value.

## The Case of Twitter's Change to 'X'- Maximizing Brand Value and Trademarks in M&A Transactions



### TWITTER TO 'X': A CASE STUDY

In a rather extraordinary move, Twitter recently announced its name change to 'X'.<sup>26</sup> As a social media giant with more than a decade's presence and strong brand equity, Elon Musk's decision to rebrand to 'X' was seen as a strategic move in response to significant M&A activities. Twitter's brand value, like most tech companies, resides mainly in its intangible assets.<sup>27</sup> As an established brand, Twitter possesses high brand awareness and loyalty.<sup>28</sup> Its name, logo, and the platform's unique microblogging nature have become synonymous with real-time information sharing worldwide. The value of Twitter's intellectual property (IP), including its trademark, was deeply intertwined with its brand value. IP protection helped Twitter maintain its unique position in the market, preventing competitors from mimicking its distinctive features. Thus, the brand value and the IP value of Twitter were mutually reinforcing, creating a robust and unique market presence.

In renaming to 'X,' the company faces potential risks of losing some of this immense brand value. Analysts and brand agencies suggest that Twitter's strategic decision to rebrand as 'X,' coupled with the removal of its iconic bird logo and associated terminology like "tweet," has resulted in a reduction of brand value estimated between \$4 billion and \$20 billion.<sup>29</sup> According to Brand Finance, the

rebranding of Twitter to 'X' has reportedly led to a significant decrease in brand value, estimated at a 32% decline to \$3.9 billion. Additionally, the brand's strength has experienced an 11-point reduction.

The acquisition of Twitter and the subsequent name change to 'X' marks a seismic shift in the social media landscape.<sup>31</sup> The motivations for such a move could be multifaceted, potentially including strategic repositioning, access to new markets, and enhanced growth opportunities. However, this change may bring significant implications for Twitter's brand value and IP. With the name change, the strong brand associations tied to 'Twitter' may be put at risk. The new entity, 'X,' has the task of either transferring the brand equity from Twitter or building a new brand identity from scratch. The name 'Twitter,' protected by its trademark, has a specific set of associations for its millions of users. The change to X may mean these associations could be lost, leading to a possible dilution of brand equity.

Additionally, from an IP perspective, the change brings its share of complexities. While the company might have retained the rights to the original Twitter trademark and its associated features, the practical value of these IP assets could diminish if 'X' does not maintain the same brand associations. Additionally, establishing the trademark of 'X' demands considerable effort and

# The Case of Twitter's Change to 'X' - Maximizing Brand Value and Trademarks in M&A Transactions



resources to build recognition comparable to Twitter's.

The change from Twitter to X offers important lessons to any company considering a major rebranding following an acquisition. First, IP valuation is a complex but necessary process during an acquisition. As a result, businesses must assess the value of existing trademarks and how they may change over time. This includes taking into account the possible residual value of previous trademarks as well as the investment required to build recognition for new ones. Second, companies should ensure that they have a strategic plan in place for utilizing current brand equity during the transitional period. This may entail retaining certain features of the brand or gradually introducing changes to assist users in adjusting. Lastly, companies should anticipate varying responses from various stakeholder groups and prepare strategies accordingly. Brand changes can elicit powerful emotions, and companies must properly manage these reactions in order to preserve loyalty and trust.

## CONCLUSION

The transformation of Twitter to 'X' provides interesting insights into the interplay between brand value, trademarks, and M&A. This bold move reinforces the strategic importance of brand value and trademarks in merger and acquisition decisions, highlighting that the management of these intangible assets plays a critical role in a successful merger or acquisition.

<sup>1</sup>Henk Jan Rutgers & Marc Cloosterman, How to Squeeze the Best Value out of Newly Acquired Brands – a step-by-step Approach, WORLD TRADEMARK REVIEW (2021), <https://www.worldtrademarkreview.com/article/how-squeeze-the-best-value-out-of-newly-acquired-brands-step-step-approach> (last visited Aug 2, 2023).

<sup>2</sup>OCEAN TOMO, Intangible Asset Market Value Study, OCEAN TOMO (2020), <https://oceantomo.com/intangible-asset-market-value-study/> (last visited Aug 2, 2023).

<sup>3</sup>Roger Boutin, Council Post: Brand Value in Mergers and Acquisitions: When Perception Becomes Reality, FORBES, Oct. 2020, <https://www.forbes.com/sites/forbescommunicationscouncil/2020/10/29/brand-value-in-mergers-and-acquisitions-when-perception-becomes-reality/?sh=7b7c8cca46ee> (last visited Aug 2, 2023).

<sup>4</sup>Id.

<sup>5</sup>Id. See, Novagraaf, IP in M&A: Challenges to Overcome When Acquiring Brand Assets, (2022), <https://www.novagraaf.com/en/insights/ip-ma-challenges-overcome-when-acquiring-brand-assets> (last visited Jul 31, 2023).

<sup>6</sup>Rob Davey, The Importance of Trademarks in Mergers & Acquisitions, Lawyer Monthly, Mar. 27, 2022, <https://www.lawyer-monthly.com/2017/03/the-importance-of-trademarks-in-mergers-acquisitions/> (last visited Jul 31, 2023).

<sup>7</sup>Id.

<sup>8</sup>Lippincott, The Way to M&A Success: How Brand Paves the Way, LIPPINCOTT, <https://lippincott.com/insight/driving-ma-success/> (last visited Aug 2, 2023).

<sup>9</sup>Roger Boutin, supra note 3.

# The Case of Twitter's Change to 'X'- Maximizing Brand Value and Trademarks in M&A Transactions



<sup>10</sup>Id.

<sup>11</sup>See generally, David Aaker; What Is Brand Equity?, Prophet (2013), <https://prophet.com/2013/09/156-what-is-brand-equity-and-why-is-it-valuable/> (last visited Jul 29, 2023); Carol J. Simon & Mary W. Sullivan, *The Measurement and Determinants of Brand Equity: a Financial Approach*, 12 *Marketing Science* 28 (1993); See generally, EverEdge, *Brand Valuation: the Ultimate Intangible Asset Scorecard*, EverEdge Global (2020), <https://www.everedgeglobal.com/brand-valuation-the-ultimate-intangible-asset-scorecard/> (last visited Jul 29, 2023); Vithala R. Rao, Manoj K. Agarwal & Denise Dahlhoff, *How Is Manifest Branding Strategy Related to the Intangible Value of a Corporation?*, 68 *Journal of Marketing* 126 (2004), <https://journals.sagepub.com/doi/10.1509/jmkg.68.4.126.42735> (last visited Jul 29, 2023).

<sup>12</sup>USPTO, *What Is a Trademark?* (2021),

<https://www.uspto.gov/trademarks/basics/what-trademark> (last visited Jul 29, 2023).

<sup>13</sup>How Trademarks Help Businesses Protect Brand Value, ExyIp (2021),

<https://www.exyip.com/2021/02/12/how-trademarks-help-businesses-protect-brand-value/> (last visited Jul 29, 2023).

<sup>14</sup>Id.

<sup>15</sup>Robert Klara, *How Twitter's Bird Evolved to Become One of the Most Recognizable Logos Today* (2017), <https://www.adweek.com/brand-marketing/how-twitters-logo-perched-in-our-cultural-consciousness-and-came-to-signify-the-brand-all-by-itself/> (last visited Jul 29, 2023).

<sup>16</sup>Laurens Hoekstra, *How to Maximise Brand Value during and after the M&A Process*, VIM Group (2022), <https://vim-group.com/en/blog/how-to-maximise-brand-value-during-and-after-the-ma-process/#:~:text=The%20value%20of%20a%20brand> (last visited Aug 2, 2023).

<sup>17</sup>Id.

<sup>18</sup>The Associated Press, *Pixar Becomes Unit of Disney* (Published 2006), NY Times, May 6, 2006,

<https://www.nytimes.com/2006/05/06/business/media/06pixar.html#:~:text=As%20part%20of%20the%20deal> (last visited Jul 29, 2023); See, also, Laura M. Holson, *Disney Agrees to Acquire Pixar in a \$7.4 Billion Deal*, *The New York Times*, Jan. 25, 2006, <https://www.nytimes.com/2006/01/25/business/disney-agrees-to-acquire-pixar-in-a-74-billion-deal.html> (last visited Jul 29, 2023).

<sup>19</sup>The Walt Disney Company, *Disney to Acquire Pixar*, The Walt Disney Company (2006), <https://thewaltdisneycompany.com/disney-to-acquire-pixar/> (last visited Jul 29, 2023).

<sup>20</sup>Meta, *Facebook to Acquire WhatsApp*, Meta, Press Release, Feb. 19, 2014, [https://s21.q4cdn.com/399680738/files/doc\\_news/2014/FB\\_News\\_2014\\_2\\_19\\_Financial\\_Releases.pdf](https://s21.q4cdn.com/399680738/files/doc_news/2014/FB_News_2014_2_19_Financial_Releases.pdf) (last visited Jul 29, 2023); See, Parmy Olson, *Facebook Closes \$19 Billion WhatsApp Deal*, *Forbes*, Oct. 2014, <https://www.forbes.com/sites/parmyolson/2014/10/06/facebook-closes-19-billion-whatsapp-deal/?sh=6451fb025c66> (last visited Jul 29, 2023).

<sup>21</sup>Id.

<sup>22</sup>WhatsApp is available in 180 countries and in 60 languages, See, Mansoor Iqbal, *WhatsApp Revenue and Usage Statistics* (2019), *Business of Apps* (2019), <https://www.businessofapps.com/data/whatsapp-statistics/> (last visited Jul 29, 2023); See, Jay Yarow, *WhatsApp, Facebook's \$22 Billion Acquisition, Did \$10.2 Million in Revenue Last Year*, *Business Insider*, Oct. 28, 2014, <https://www.businessinsider.com/whatsapp-facebooks-22-billion-acquisition-did-102-million-in-revenue-last-year-2014-10> (last visited Jul 29, 2023).

<sup>23</sup>Continental Airlines, Inc., e425 SEC Filing, www.sec.gov (2010), [https://www.sec.gov/Archives/edgar/data/319687/000095012310058266/h73160k\\_e425.htm](https://www.sec.gov/Archives/edgar/data/319687/000095012310058266/h73160k_e425.htm) (last visited Jul 29, 2023). See also, SEC Archives, *Press Release, SEC Edgar* (2010), <https://www.sec.gov/Archives/edgar/data/100517/000119312510222185/dex991.h>

[tm](#) (last visited Jul 29, 2023).

<sup>24</sup>Eugene Kim, *Amazon's Soaring Goodwill Balance Shows How Whole Foods Buy Was a long-term Bet*, CNBC, Feb. 6, 2018, <https://www.cnbc.com/2018/02/06/amazon-10-billion-goodwill-balance-shows-whole-foods-strategy.html> (last visited Jul 28, 2023).

<sup>25</sup>Comerford & Dougherty, LLP, *The Value of Goodwill and Your Brand*, Comerford & Dougherty, LLP Blog (2019), [https://www.mcmdlaw.com/lawyer/2019/03/01/CorporateBusiness-Organization/The-Value-of-Goodwill-and-Your-Brand\\_b137322.htm](https://www.mcmdlaw.com/lawyer/2019/03/01/CorporateBusiness-Organization/The-Value-of-Goodwill-and-Your-Brand_b137322.htm) (last visited Jul 29, 2023).

<sup>26</sup>See the following, Irina Ivanova, *Twitter Is Now X. Here's What That Means*, CBS News, Jul. 25, 2023, <https://www.cbsnews.com/news/twitter-rebrand-x-name-change-elon-musk-what-it-means/> (last visited Jul 29, 2023); Ryan Mac & Tiffany Hsu, *From Twitter to X: Elon Musk Begins Erasing an Iconic Internet Brand*, *The New York Times*, Jul. 24, 2023, <https://www.nytimes.com/2023/07/24/technology/twitter-x-elon-musk.html> (last visited Jul 29, 2023); Jill Goldsmith, *As Elon Musk Rebrands Twitter, Says Tweets Should Be Called 'X's*, *Deadline*, Jul. 24, 2023, <https://deadline.com/2023/07/elon-musk-rebrands-twitter-to-x-tweets-x-com-linda-yaccarino-1235446288/> (last visited Jul 29, 2023).

<sup>27</sup>Mark Gollom, *Twitter Was the Holy Grail of branding. Then Elon Musk Ditched it. Experts Question Why*, CBC News, Jul. 23, 2023, <https://www.cbc.ca/news/business/twitter-elon-musk-branding-x-1.6917161> (last visited Jul 29, 2023); See, Robert Hart, *Elon Musk Changes X Logo—And Then Changes It Back Again—As Twitter Rebrand Evolves*, *Forbes* (2023), <https://www.forbes.com/sites/roberthart/2023/07/26/elon-musk-changes-x-logo-and-then-changes-it-back-again-as-twitter-rebrand-evolves/?sh=ddc1b17670b0> (last visited Jul 29, 2023).

<sup>28</sup>Press Release, *Twitter Brand Value Jumped 85% before Musk Takeover Attempt*, Brand Finance (2022), <https://brandfinance.com/press-releases/twitter-brand-value-jumped-85-before-musk-takeover-attempt> (last visited Jul 29, 2023).

<sup>29</sup>Aisha Counts & Jesses Levine, *By Renaming Twitter as X, Musk Wipes Billions in Brand Value*, *Time*, Jul. 2023, <https://time.com/6297303/twitter-x-rebrand-cost/> (last visited Jul 29, 2023).

<sup>30</sup>Richard Haigh, *Media 50, Annual Brand Value Ranking*, Brand Finance (2023), <https://brandirectory.com/rankings/media/> (last visited Jul 29, 2023).

<sup>31</sup>Giorgi Mikhelidze, *From Twitter to X.com: Elon Musk's Seismic Rebranding Sets the Stage for a Digital Revolution*, *InsideTrade*, (Jul. 26 2023), <https://insidetrade.co/from-twitter-to-x-com-elon-musks-seismic-rebranding-sets-the-stage-for-a-digital-revolution/> (last visited Jul 29, 2023).



## MEET THE AUTHOR



**MOSUN OKE**  
PARTNER  
[m.oke@topeadebayolp.com](mailto:m.oke@topeadebayolp.com)

Mosun is a Partner at Tope Adebayo LP, and she leads the firm's Corporate & Commercial Practice Group.

An innovative and accomplished transactions attorney with a knack for creating innovative legal products. She has, over the years, handled complex cases and transactions on behalf of major multinational companies in Nigeria and advised many corporate clients on intellectual property identification, valuation and commercialization.

Mosun is passionate about the intersection of intellectual property and innovation in policy making and is currently researching the efforts made in some jurisdictions to expand the scope of secured credit transactions to cover security interests over intellectual property and the barriers thereto, with the goal of determining the appropriate policy framework for Nigeria.

She is a registered Capital Markets consultant with the Securities and Exchange Commission (SEC) and a registered member of the Financial Reporting Council of Nigeria (FRCN). Mosun is member of the Nigerian Bar Association (NBA), International Bar Association (IBA) and Intellectual Property Law Association of Nigeria (IPLAN).

Do you need to get in touch with us, to know more on how we can help you and your business?  
Please contact us using any of the details provided below:

### TOPE ADEBAYO LP

25C Ladoke Akintola Street, G.R.A. Ikeja Lagos, Nigeria  
p: +234 (1) 628 4627  
e: [info@topeadebayolp.com](mailto:info@topeadebayolp.com)  
w: [www.topeadebayolp.com](http://www.topeadebayolp.com)

