HARVARD | BUSINESS | SCHOOL

N9-921-049
MARCH 22, 2021

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LVMH's Bid for Tiffany & Co.

Founded in 1837, Tiffany & Co. had a proud history as one of the most iconic designers of luxury jewelry in the world. Its signature blue box was known by high-end consumers globally, and classic movies such as *Breakfast at Tiffany's* gave it a permanent place in American culture. In recent times however, the company had been struggling with growth, as annual sales and profit were on a decline since 2015. Though it managed to achieve a revenue turnaround in 2017[1], profits continued to drop through 2018. As a result, Tiffany's shareholder returns suffered, underperforming both the S&P 500 Index and S&P Consumer Discretionary Index over the past five years (See **Exhibit 1**).

Rumors that LVMH, the biggest luxury goods conglomerate in the world, wanted to acquire Tiffany started circulating in the industry in the fall of 2019. In response to these rumors, LVMH, on October 28th, 2019, confirmed that it had held preliminary discussions regarding a possible transaction with Tiffany. LVMH clarified that there was no assurance that these discussions would result in any agreement.[2] LVMH's Chairman and CEO, Bernard Arnault, had built LVMH into a powerhouse with more than €50 billion in annual revenue by pursuing a relentless acquisition strategy and now looked at Tiffany to be the crown jewel atop his luxury empire.[3] LVMH initially made an offer of $120 per share[4] to acquire Tiffany but the bid was promptly rejected by Tiffany's board. LVMH raised its offer five times before its bid was ultimately accepted.[5]

On November 25th, 2019, LVMH announced that it had reached a deal with Tiffany to acquire Tiffany for $135 per share in cash, in a transaction with an equity value of approximately $16.2 billion.[6] The deal represented a 37 percent premium over Tiffany's unaffected share price.[7] The market responded positively to the merger announcement, as LVMH's and Tiffany's share price increased by 2.3% and 6.2% respectively (compared to a 0.8% increase in the S&P 500 and a 1.3% increase in the S&P 500 Global Luxury Index that day).[8]

Just weeks after the deal was announced, however, a public health crisis started making news. A novel strain of coronavirus, COVID-19, began spreading rapidly across the globe. In March of 2020 the World Health Organization declared the outbreak a pandemic and, as a result, governments throughout the world put in place restrictions on travel and trade.[9] Retail outlets worldwide were adversely affected owing to reduced foot traffic and economic instability. Tiffany, in response to the

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Professors Guhan Subramanian and Julian Zlatev and Raseem Farook (MBA 2021) prepared this case. This case was developed from published sources. Funding for the development of this case was provided by Harvard Business School and not by the company. Professor Subramanian was retained as an advisor and potential expert witness in LVMH's litigation against Tiffany in the Delaware Chancery Court. HBS cases are developed solely as the basis for class discussion. Cases are not intended to serve as endorsements, sources of primary data, or illustrations of effective or ineffective management.

pandemic, decided to temporarily close most of its stores globally, including all US stores, in March 2020.[10] This resulted in a 45% drop in their Q1 revenues compared to the prior year.[11]

In September 2020, LVMH came to the conclusion that Tiffany was no longer the same business it agreed to purchase several months earlier. LVMH was also irate that Tiffany continued to make dividend payouts of $70 million per quarter to its shareholders during this time when most of its peers had suspended making such payments.[12]

The merger agreement, which was heavily negotiated by the parties, gave LVMH the right to walk away from the deal if Tiffany's business experienced a "Material Adverse Effect."(MAE) In addition, closing was conditioned upon compliance with all covenants to the deal, including the requirement that Tiffany operate in the "ordinary course of business" between signing and closing. If Bernard Arnault and LVMH wanted the legal right to terminate the deal, they had to determine if either an MAE had occurred, and/or whether Tiffany violated the ordinary course covenant. Did the pandemic have a Material Adverse Effect on Tiffany's business? Alternatively, did Tiffany violate the ordinary course covenant by closing its stores and not halting its dividend payments? The future of the deal hinged on the answers to those questions.

LVMH

LVMH Moët Hennessy - Louis Vuitton, Société Européenne was the world's leading luxury goods conglomerate. LVMH operated 75 brands or "Maisons" under six business segments: fashion and leather goods, watches and jewelry, wines and spirits, perfumes and cosmetics, selective retailing and other activities. LVMH had more than 5,000 stores around the globe and was headquartered in Paris, France. In 2019, LVMH recorded €53.65 billion in revenue with €7.17 billion in net income – representing an annual growth rate of 14.63% and 12.86% respectively (See **Exhibit 2** for a breakdown of 2019 revenue by segment and geography).[13]

LVMH's market-leading position in the luxury goods industry was attributed primarily to the leadership of its Chairman and CEO, Bernard Arnault, who in 2019 was the world's second richest person.[14] According to an article in the *New York Times*, Arnault was known to be "extremely competitive, unafraid of a fight and undaunted by public opprobrium."[15] His approach to doing business and his maneuvers during corporate takeovers had earned him several monikers, including the "Wolf in Cashmere" and the "Sun-Tsu of Luxury."[16] Under his leadership, LVMH achieved tremendous growth by pursuing an aggressive M&A strategy. He invested in reputable brands that were seen as struggling, and then worked to revive them by integrating them into the LVMH machine. By leveraging LVMH's scale and sharing costs across the organization, the company had the ability to boost profit margins substantially for each of its divisions and brands.

LVMH's successful turnaround of Italian jewelry maker Bulgari illustrates the strategy. In 2011, LVMH purchased Bulgari for €3.7 billion in an all-stock transaction, which represented a 60% premium to Bulgari's unaffected share price.[17] Since the acquisition, LVMH worked on streamlining Bulgari's product line and reducing its reliance on wholesale for jewelry sales. Eventually, LVMH's efforts led to a doubling of Bulgari's revenues.[18] Hoping to replicate this success, LVMH now looked to Tiffany as its next turnaround effort..

Tiffany & Co.

In 1837, Charles Lewis Tiffany and his friend John B. Young opened a stationery and fancy goods store in New York City with the help of a $1,000 contribution from Charles' father.[19] The store grew to focus more heavily on jewelry and luxury goods and over time, and Tiffany & Co. eventually became the market leader in the fragmented luxury jewelry and watch industry.

In 2019, the company had a global market share of 25.4%, followed by Richemont SA (holding group of Cartier) with 21.2%.[20] In its 2019 Annual Report to Shareholders, the company observed that its brand value was its "single most important asset." The company built this brand value by cultivating an image associated with "high-quality gemstone jewelry, particularly diamond jewelry; sophisticated style and romance; excellent customer service; an elegant store and online environment; upscale store locations; 'classic' product positioning; and distinctive and high-quality packaging materials (most significantly, the TIFFANY & CO. blue box)."[21] Operating more than 300 stores in over 20 countries, Tiffany, in 2019, recorded $4.44 billion in annual revenue and $586.4 million in net income.[22]

Tiffany had an impressive legacy of jewelry design, dating back to the 19th century. The company's website touted its legacy of design leadership, claiming to have in 1886, "introduced the engagement ring as we know it today. Previously, diamond rings were set in bezels. But Mr. Tiffany's ring was designed to highlight brilliant-cut diamonds by lifting the stone off the band into the light."[23] Throughout the company's history, various organizations had commissioned Tiffany to create custom designs, such as the Lombardi Trophy for the NFL and the Great Seal of the United States, which appears on the one-dollar bill.[24]

Laying the Groundwork in Texas

Before going public with LVMH's intention to acquire Tiffany, Arnault wanted to ensure that his efforts to own the iconic American brand would not face any hurdles from the US government. He set in motion a plan to gain the support of a person who could remove any potential roadblocks from the deal's approval process – US President Donald Trump.

In October 2019, LVMH opened a new factory in Texas for its Louis Vuitton brand. The move raised eyebrows in the luxury retailing world because manufacturing operations for Louis Vuitton were primarily based in Europe (mainly France and Italy).[25] LVMH promised to provide 1,000 jobs for Americans at the Texas facility, but only 150 were employed at the time of its opening.[26] Arnault nevertheless managed to get President Trump to attend the facility's opening ceremony (See **Exhibit 3**). At the ribbon cutting event, President Trump promoted his administration's success in bringing manufacturing jobs back to the US and noted, "[t]oday, we continue the extraordinary revival of American manufacturing and we proudly celebrate the opening of the brand-new Louis Vuitton – a name I know very well… cost me a lot of money over the years."[27]

At the ribbon-cutting event itself, Arnault gave President Trump a hint that a deal was imminent, and that it would be the largest ever in the luxury sector. "I told the President I would buy something significant in the US, but I didn't tell him the name," he said.[28] Arash Massoudi, Corporate Finance and Deals Editor for the *Financial Times*, explained:

> If you think about from what's actually going on in Bernard Arnault's mind… he is about to make a swoop on Tiffany's, which the world does not know about. But he, as a foreign raider of a prime US asset, what you need to do is disarm the most disruptive person in America and that's the US president – as we can see with other transactions

where he is highly interventionist and one tweet can cause a lot of headache. He, anticipating this, disarmed the President before even the bid becoming public – going to Texas, announcing job creation, effectively cozying up to the President.[29]

Negotiating the Deal

Timeline of the Negotiation

On October 15th, 2019, around the same time that the Louis Vuitton factory opened in Texas, LVMH approached Tiffany with an offer to acquire the company. Tiffany's stock that day was trading at around $91 per share.[30] LVMH proposed to acquire all of Tiffany's common stock at a price of $120 per share in cash, valuing Tiffany at approximately $14.4 billion. According to Tiffany representatives, this proposal was unsolicited and Tiffany was not in talks with anyone else regarding a potential merger at the time.[31]

On October 16th, Tiffany's board convened for an already-scheduled board meeting. They decided to further evaluate a potential LVMH acquisition, and spent the following two weeks performing internal and external reviews of the offer. On October 27th, news of the discussions leaked to the press,[32] leading LVMH to issue a press release confirming the rumors but stressing that discussions were still ongoing.[33] Shares of Tiffany stock jumped more than 30%, to nearly $130 per share, on this news.[34]

On November 4th, Tiffany rejected LVMH's initial offer of $120 per share. LVMH remained undaunted, and increased its offer several times over the following weeks. The offer stood at $130 per share when, on November 19th, LVMH began its due-diligence process. Five days later, on November 24th, both parties agreed to a deal. LVMH would acquire Tiffany in an all-cash deal for $135 per share, valuing Tiffany at $16.2 billion. The parties agreed to set a so-called "drop-dead" date by which the deal had to be completed. The original drop-dead date was set for August 24th, 2020, though the agreement allowed either party to extend that date to November 24th, 2020.[35] On November 25th, 2019, LVMH and Tiffany issued a joint press release announcing the deal.[36]

Details of the Merger Agreement

As is common in M&A deals, the merger agreement included a Material Adverse Effect (MAE) clause, which allowed LVMH to terminate the deal if Tiffany suffered a significant reduction in value between signing and closing. MAE clauses typically include a number of "carve-outs", which are prespecified event types that would *not* allow the buyer to trigger the MAE clause to pull out of the deal. The LVMH-Tiffany agreement listed carve-outs for eight broad categories of events (see **Exhibit 4**), including general economic or political conditions and natural disasters. A number of specific events were listed as examples within these categories, such as the Hong Kong protests and the Yellow Vest movement in France. No specific reference was made to a pandemic or any public health crisis in the MAE for the Tiffany acquisition. Also common, and included in the LVMH-Tiffany merger agreement, were a series of "disproportionality carvebacks," which stated that certain carveouts would become an MAE again if Tiffany suffered disproportionally relative to its industry peers.

The deal also included a requirement that Tiffany should operate its business in the ordinary course "in all material respects" between signing and closing (the "Ordinary Course Covenant") (See **Exhibit 5**). Compliance with Ordinary Course Covenant was a condition to closing. Therefore, if Tiffany did not operate its business in the ordinary course, LVMH no longer had an obligation to close the deal.

With the deal signed and publicly announced, LVMH began the long process of obtaining regulatory approval in all of the relevant jurisdictions. LVMH and Tiffany both appeared satisfied with the deal and entered 2020 anticipating a bright future for the two companies.[37]

Developments Post-Signing

COVID-19 Strikes

Towards the end of 2019, an outbreak of a novel strain of coronavirus, COVID-19, started spreading rapidly across the globe. On March 11th, 2020, the World Health Organization (WHO) classified the outbreak as a pandemic.[38] Governments across the world took steps to contain the spread of the virus – imposing lockdowns and other such restrictions on travel and trade. Tiffany, on March 17th, 2020, announced that it would temporarily close several stores, including its Fifth Avenue flagship store in New York, and reduce working hours at other outlets, in an effort to contain the spread of the virus.[39] By April 30th, 2020, approximately 70% of Tiffany's retail stores remained closed worldwide, including every store in the America.[40]

In subsequent weeks, Tiffany slowly started reopening its stores. By May 29th, 2020, approximately 80% of its retail stores worldwide were either fully or partially open, including approximately 70% of the stores in America.[41] However, this didn't last long. Protests started to break out in the US over concerns that companies were placing its customers and employees at risk by reopening their stores. As a result, Tiffany, on May 31, 2020 decided once again to close all its retail locations in the US.[42]

Tiffany's Earnings Drop

The shutdown of Tiffany's stores combined with reduced foot traffic and economic instability led to a steep drop in the company's business performance. On June 9th, 2020, Tiffany announced its Q1 earnings and the extent to which the pandemic affected their business became clear. Same-store sales dropped by 44% for the quarter, compared to that from a year ago.[43] Total revenue fell by 45%, leading to a net income loss of $64.6 million or 53 cents a share, compared to a net income surplus of $125 million or $1.03 per share a year ago.[44]

Despite the disappointing performance, Tiffany continued to make dividend payments of $0.58 per share to its shareholders during this period. A total of $140 million was paid out in May and August ($70 million per quarter) and an additional $70 million was set to be paid out in November.[45] Tiffany's plan to pay this quarterly dividend was included in their merger agreement with LVMH at the time of signing and the company did not make changes to this plan in lieu of the pandemic.[46] Other companies in the luxury goods space, such as Burberry and Hermes, either cancelled or reduced their dividend payouts during this time.[47] [48]

A Letter Appears

LVMH became concerned that Tiffany was not managing its cash reserves responsibly. This cash would be vital to revive the business in the post-pandemic period; therefore, Arnault and LVMH did not appreciate the fact the Tiffany continued to make dividend payments. Particularly worrying for Arnault was the fact that Tiffany had no incentive to stop paying dividends, as the deal with LVMH was an all-cash transaction and therefore, issuing dividends was just more value claimed for their shareholders. Arnault tried to persuade Tiffany to reduce or eliminate its dividend on multiple occasions, but was unsuccessful.[49] He then started taking steps to bring Tiffany back to the negotiating table.

In June of 2020, news started surfacing that LVMH's board was having second thoughts about going forward with the transaction.[50] Leila Abboud, Paris correspondent for the *Financial Times*, observed, "Anyone who has ever covered LVMH knows that this does not happen. There are almost never leaks from the LVMH boardroom unless someone wants there to be leaks from the LVMH boardroom." With the deal looking a lot less certain, Tiffany's shares plunged by 8.9%.[51] Tiffany's shareholders and other speculators who had bet on the deal going through started to apply pressure on Tiffany to go back to the negotiation table with LVMH. Yet Tiffany did not budge.

On August 31st, 2020, LVMH received a letter from Jean-Yves Le Drian, the French Minister of Foreign Affairs (See **Exhibit 6** for an English translation of the letter). The letter pointed to the US's decision to levy an additional tax on French goods, particularly luxury goods, and added that LVMH should support the French government's response to America's actions by deferring the closing of the Tiffany deal until January 6, 2021.[52] Suspicions arose as to whether LVMH had solicited this letter from the French government. LVMH denied doing so; but according to an article in the *Financial Times*, "it seems a stretch of the imagination to think that the company played no part in its auspiciously timed arrival. Mr. Arnault holds unique sway in France, and his family are close to the Macrons [France's President and First Lady]."[53] Furthermore, there was ambiguity around the French Minister's authority to issue such an order. Matters relating to trade were handled at the EU level and hence, there were questions on whether the letter was legally binding.

In response to receiving this letter, LVMH informed Tiffany on September 9th, 2020 that it could no longer meet the November 24th deadline to complete the merger as laid out in the agreement and hence, they would not go forward with the transaction.[54]

Tiffany Sues LVMH

On the very same day that Tiffany received the news from LVMH that it would not close the deal, Tiffany filed a lawsuit in the Delaware Chancery Court demanding that LVMH close the deal. LVMH had made three assertions to justify terminating the deal: 1) an MAE had occurred; 2) Tiffany did not operate the business in the "Ordinary Course"; and 3) the letter from the French Minister prevented LVMH from closing the deal.

Tiffany challenged all three of these claims in its court filing. Tiffany argued that LVMH has taken the position, "without one shred of support", that the global economic downturn resulting from the COVID-19 pandemic qualified as a Material Adverse Effect.[55] Tiffany contended that, according to the merger agreement, a downturn in "general economic or political conditions" did not constitute MAE, and therefore no MAE had occurred.[56] In addition, Tiffany pointed out that even if COVID-19 constituted an MAE, it did not disproportionally affect Tiffany. Other luxury retailers were equally affected by the pandemic and therefore the disproportionality carveback did not apply.[57]

Regarding the claim that Tiffany had breached the Ordinary Course Covenant, Tiffany stated that it had been paying dividends for the last 30 years without fail, even during the financial crisis of 2007-2009.[58] And regarding the letter from the French minister, Tiffany noted that the agreement stated that LVMH could terminate the deal only if the order was "final and non-appealable" and that the letter "does not come close" to meeting that standard.[59] Tiffany further alleged that LVMH was dragging its feet in getting the required antitrust approvals. Even though nine months had passed since the deal was signed, LVMH had not yet filed for the requisite antitrust approvals in the EU and Taiwan. The merger agreement obligated LVMH to obtain these approvals "as promptly as practicable" and Tiffany claimed that LVMH, by delaying on this front, had violated that obligation.[60]

LVMH Files Counterclaim

On September 28th, 2020, LVMH responded to Tiffany's actions with a lawsuit of its own. LVMH argued that Tiffany had negotiated several carveouts in the MAE clause, but notably absent on the list was "pandemics" or "other public health events."[61] LVMH alleged that both of these carveouts were common in the industry during the time of signing and by not including it in the agreement, Tiffany agreed to bear any pandemic risk. According to LVMH's court filing:

> When the Agreement was negotiated in November 2019, pandemic carve-outs to MAE provisions were common. For more than a third of all mergers with an equity value over $1 billion announced in November 2019, the underlying agreements contain specific carve-outs for pandemics or epidemics. Among these was a contract executed on *the day before* the Agreement, for a prospective $6.8 billion transaction in which the buyer was represented by Tiffany's M&A counsel—indeed, by the *very same two attorneys from Sullivan & Cromwell* who negotiated the Agreement on behalf of Tiffany. Accordingly, when Tiffany's counsel wants to carve out pandemics in a Material Adverse Effect clause, they know how to do so expressly and clearly, which has not been the case here.[62]

Additionally, LVMH pointed to industry reports that predicted worldwide luxury sales would not return to pre-pandemic levels until at least 2023.[63]

Regarding the Ordinary Course Covenant, LVMH claimed that a "prudently managed company" would have cancelled its dividend payments during a pandemic, especially when "most if not all of Tiffany's peers did just that."[64] Furthermore, LVMH argued that Tiffany, in an effort to boost short-term profitability, acted irresponsibly by cutting marketing spending by 39% and capital expenditures by 32% - steps that not only deviated from the ordinary course of business, but also affected the company's revival prospects post-COVID.[65]

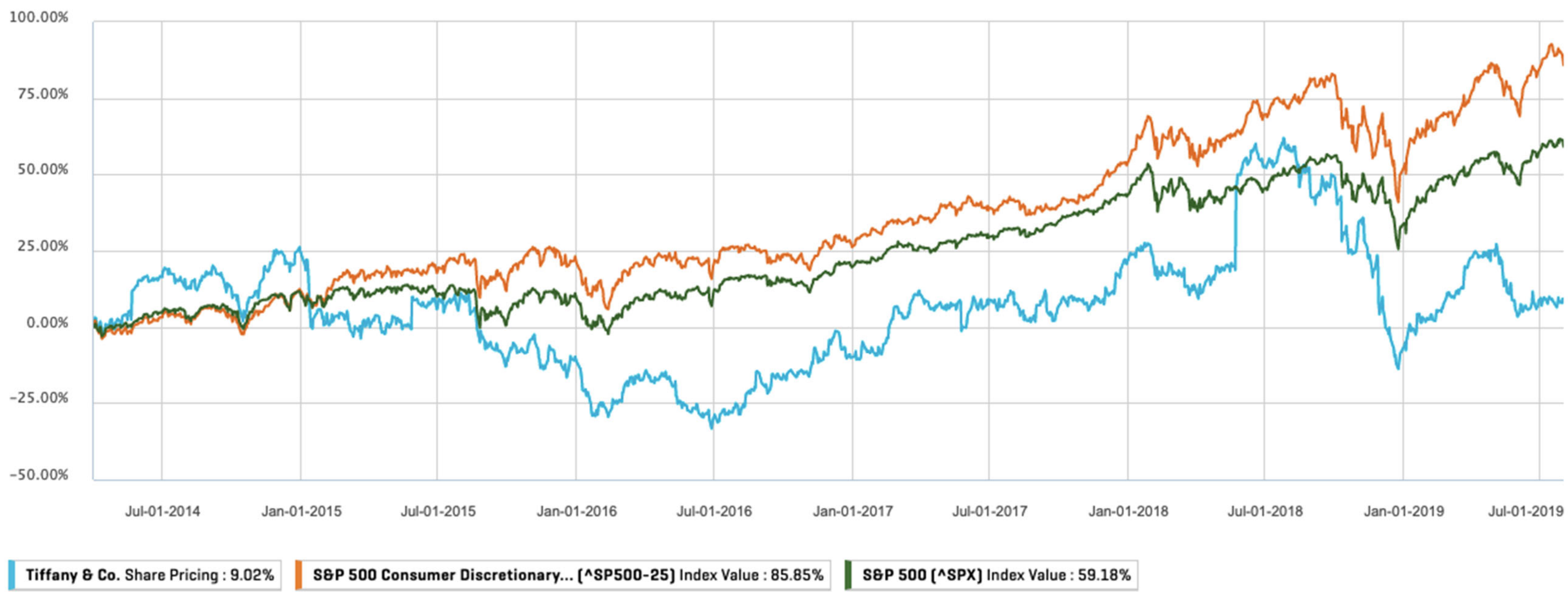
Finally, concerning the letter from the French Minister, LVMH contended that "if a governmental entity imposes a legal restraint precluding closing by the outside date, the closing cannot occur."[66] LVMH had determined that the letter constituted such an order, and therefore, they cannot proceed with the transaction.[67]

Conclusion

A trial date was set for January 5th, 2021.[68] Whether the COVID-19 pandemic constituted MAE was an important question that remained unanswered. If the courts were to decide that the pandemic did indeed constitute MAE, it could open the floodgates for many buyers to start backing out of deals they had previously agreed to close. Therefore, the eyes of the entire M&A world were keenly observing the developments of this case.

With the trial date approaching, LVMH's board and Bernard Arnault had to quickly decide what to do. They believed that they had the contractual right to terminate the deal as Tiffany had experienced a Material Adverse Effect. Moreover, they thought that decisions taken by Tiffany's management violated the Ordinary Course Covenant, which bolstered their case further. However, what was the certainty that their arguments would hold up in court?

Exhibit 1 Tiffany & Co. - Shareholder Returns



Source: Capital IQ

Exhibit 2 LVMH - 2019 Revenue Breakdown by Geography and Business Group

Source: LVMH Annual Report 2019

Exhibit 3 Ribbon Cutting Ceremony for the Texas LV Factory

Source: Official White House Photo, Shealah Craighead

Exhibit 4 Material Adverse Effect Clause

"Material Adverse Effect" means any Effect that, individually or in the aggregate with all other Effects, (a) has had or would be reasonably expected to have a material adverse effect on the business, condition (financial or otherwise), properties, assets, liabilities (contingent or otherwise), business operations or results of operations of the Company and its Subsidiaries, taken as a whole or (b) would or would reasonably be expected to prevent, materially delay or materially impair the ability of the Company to consummate the Merger or to perform any of its obligations under this Agreement by the Outside Date; provided, however, in the case of clause (a) no Effect arising out of or resulting from any of the following shall be deemed either alone or in combination to constitute a Material Adverse Effect:

(i) changes or conditions generally affecting the industries in which the Company and any of its Subsidiaries operate,

(ii) general economic or political conditions (including U.S.-China relations), commodity pricing or securities, credit, financial or other capital markets conditions, in each case in the United States or any foreign jurisdiction in which the Company or any of its Subsidiaries operate,

(iii) any failure, in and of itself, by the Company to meet any internal or published projections, forecasts, estimates or predictions in respect of revenues, earnings or other financial or operating metrics for any period (it being understood that the facts or occurrences giving rise to or contributing to such failure may be deemed to constitute, or be taken into account in determining whether there has been, or is reasonably expected to be, a Material Adverse Effect, to the extent permitted by this definition),

(iv) consequences resulting from the execution and delivery of this Agreement or the public announcement or pendency of the transactions contemplated hereby, including the impact thereof on the relationships, contractual or otherwise, of the Company or any of its Subsidiaries with employees, labor unions, customers, suppliers, designers, landlords or partners,

(v) any change, in and of itself, in the market price or trading volume of the Company's securities or in its credit ratings (it being understood that the facts or occurrences giving rise to or contributing to such change may be deemed to constitute, or be taken into account in determining whether there has been, or is reasonably expected to be, a Material Adverse Effect, to the extent permitted by this definition),

(vi) any change in Law applicable to the Company's business or GAAP (or authoritative interpretation thereof),

(vii) geopolitical conditions, the outbreak or escalation of hostilities (including the Hong Kong protests and the "Yellow Vest" movement), any acts of war (whether or not declared), sabotage (including cyberattacks) or terrorism, or any escalation or worsening of any such acts of hostilities, war, sabotage or terrorism threatened or underway as of the date of this Agreement,

(viii) any hurricane, tornado, flood, earthquake or other natural disaster or

(ix) any actions required to be taken or not taken by the Company or any of its Subsidiaries (other than the Company's obligations under the first sentence of Section 7.1(a)) pursuant to this Agreement or, with Parent's prior written consent, except, in the case of clauses (i), (ii), (vi), (vii) and (viii) to the extent such Effect has a materially disproportionate adverse effect on the Company and its Subsidiaries, taken as a whole, relative to others in the industries and geographical regions in which affected businesses of the Company and its Subsidiaries operate in respect of the business conducted in such industries and applicable geographical regions.

Source: Agreement & Plan of Merger Between LVMH and Tiffany & Co., Inc (Nov. 24, 2019)

Exhibit 5 Ordinary Course Covenant

From and after the execution and delivery of this Agreement until the earlier to occur of the Effective Time or the termination of this Agreement in accordance with Article IX, the Company shall, and shall cause each of its Subsidiaries to, except as . . . consented to in writing by Parent (such consent not to be unreasonably conditioned, withheld or delayed) or in compliance with a Company Material Contract, and except as otherwise specifically contemplated by this Agreement or as is required by a Governmental Entity or applicable Law, comply in all material respects with all applicable Laws and the material requirements of all Company Material Contracts, conduct its business in all material respects in the Ordinary Course of Business and, in connection therewith and to the extent consistent with the Ordinary Course of Business, shall use and cause each of its Subsidiaries to use their respective commercially reasonable efforts to preserve its and its Subsidiaries' business organizations substantially intact, maintain its and its Subsidiaries' existing relations and goodwill with Governmental Entities, suppliers, distributors, consultants, licensors, licensees, creditors, lessors, employees and others having significant business dealings with them, keep available the services of its and its Subsidiaries' officers and key employees, preserve and maintain the assets utilized in connection with the business of the Company and its Subsidiaries, maintain in effect all Governmental Authorizations and maintain all material Insurance Policies with reputable insurers; "Ordinary Course of Business" means, with respect to any Person, the conduct by a Person of the relevant business in the ordinary course.

Source: Agreement & Plan of Merger Between LVMH and Tiffany & Co., Inc (Nov. 24, 2019)

Exhibit 6 Letter from French Minister of Foreign Affairs

Mr. [Arnault],

As you are aware, the American government has decided to implement an additional customs duty on the import of certain French goods, in particular goods in the luxury sector, in reaction to France adopting a digital services tax, with the U.S. deferring the application thereof until January 6, 2021.

France considers these measures legally objectionable, in view of the rules of the World Trade Organization, in particular the General Agreement on Trade in Services, and intends together with its European partners, to take measures in order to dissuade the American authorities from putting these tariff sanctions into effect.

Consequently, and because the implementation of these tariffs may affect France's external relations, for which my department is responsible, proposed investments by French companies in sectors that could be subject to such sanctions must be reevaluated in light of this new context. My attention was drawn to the most important current investment, which is your Group's pending acquisition of Tiffany.

In order to support the steps taken vis-a-vis the American government, you should defer the closing of the pending Tiffany transaction until January 6, 2021.

I am sure that you will understand the need to take part in our country's effort to defend its national interest.

Sincerely yours,

[Minister of Foreign Affairs]

Source: https://www.sec.gov/Archives/edgar/data/98246/000119312520241494/d77283dex992.htm

Endnotes

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