

Partnerships drive BIOTECH BOOM

Firms try to get ahead of rush to strike deals for new drugs

By Xenia P. Kobylarz

RECORDER STAFF WRITER

Unlike many of his Silicon Valley colleagues who abandoned the life sciences practice for Internet law in the mid- to late '90s, Kenneth Clark stuck it out with his biotech clients, which were then not as favored by investors as dotcom companies.

Today, the Wilson Sonsini Goodrich & Rosati partner is glad he kept collaborating with biotech firms because partnership transactions are increasingly common — and increasingly valuable.

Clark's practice, exclusively focused on partnering transactions for biotech companies, has so taken off in the last few years that he says it generates "an increasingly larger piece" of the firm's business.

"The market is in a relative peak right now, and if things continue the way it's been in the last three years, it's going to be fine for us," Clark said.

Firms like Fenwick & West, Latham & Watkins and Morrison & Foerster, all of which have also heavily invested in the practice, are handling a record number of biotech partnering deals as well.

Although biotech has cooled in the public market in 2005, partnering deals and acquisitions are on the upswing, said Sergio Garcia, co-chairman of Fenwick's life sciences group.

"Last year, there were over \$17 billion worth of partnering deals, and big pharmaceutical companies are not just looking at late-stage companies, but also smaller, early-stage biotech startups," Garcia said.

The reason: Big drug companies are racing to acquire biotechnology companies or their products in search of a new generation of blockbuster drugs to replace older products with expiring patents. And the intense competition for new drugs pits pharmaceutical giants in bidding wars — and generates deals with ever-larger price tags.

"I've been doing partnering deals for biotech companies for 21



JASON DOY

MATCHMAKER: Wilson Sonsini's Kenneth Clark stuck with biotech when it wasn't hot. These days? Well, notice the smile ...

years now, so that's nothing new," Clark said. "But what's new is that partnering transactions are getting bid up so high that, for the first time ever, some deals that start out as partnerships end up becoming acquisitions."

One of Clark's clients, Rinat Neuroscience Corp. — a venture-backed company developing drugs for pain, Alzheimer's disease and other neurological disorders — was recently bought by Pfizer Inc. for an undisclosed amount. Newspaper reports valued the deal at several hundred million dollars.

The deal, according to Clark, originally started out as a partnership transaction.

"This is an all-cash-up-front transaction, and it is significant because the company is only 3 years old, and not a ton of money has gone into it yet," Clark said. "This trend is very good news for VC firms, which have been struggling to find the right investment model."

VC firms are not the only ones happy about the trend. As the transactions get larger and more complex, it takes more legal work to structure them. That's good news for law firms.

"If there is a lot of money involved, everyone is going to put more

energy into it, and that will tend to generate a huge amount of legal work," Clark said.

The practice has also generated a varied amount of work for law firms, from litigation to intellectual property counseling to corporate work. As a result, law firms are aggressively beefing up their life sciences practice to go after the rich deal flow.

But not everyone can do these deals, according to Latham partner Charles Hoyng.

Hoyng, who has a doctorate in organic chemistry and is a former Genentech scientist, said the practice requires a "keen understanding of the biotech business and the nomenclature and language of the science."

"It is not to say that individuals who are not scientifically trained can't work in this area with great success, but it requires a skill set that could not be translated easily from another industry," Hoyng said.

"You also have to have a team of ded-

icated lawyers who are doing [biotech] partnership transactions full time," he added.

A deep connection to the biotech industry, the VC community and the sci-

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— KENNETH CLARK
Wilson Sonsini

entific community is also required, according to Garcia, who joined Fenwick last year after years of serving as general counsel to PDL BioPharma Inc.

Garcia said the firm's clients appreci-

ate the fact that Fenwick also represents VC firms active in the biotech arena. Working with the likes of Kleiner Perkins Caufield & Byers turns heads.

"It is a relationship-based business," Garcia said. "We've had relationships with academic institutions, VC firms and biotech companies of all sizes and that takes years to develop. It takes time to build credibility in this space, and the more you do it, the more credibility you get."

Clark, who did at least 18 partnership deals in 2005 alone, agrees. He said there is currently a short list of law firms that biotech clients go to for help.

"A lot of the firms got so caught up in the Internet frenzy, and when the dust settled, the competition in the biotech area was so far back that it would take many of them years to catch up," he said.

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