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Life Sciences IP lawyers stay put

By David Ruiz
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Life sciences companies suffer from a boom-and-bust cycle that floods companies with investors just as quickly as it dries them up. But the biotechnology and specialty-drug maker sector appears at the moment to be in an excited state and showing no signs of a slowdown. That's created a big need for intellectual property transactional attorneys with backgrounds in life sciences who can guide clients through complex, long-term licensing agreements with larger pharmaceutical companies for drug development.

Legal recruiter Daren Wein said demand for such a practice has been high, but attorneys in private practice who specialize in that area are few. And even when recruiters can find them, many just don't want to relocate.

"I haven't spoken to a firm this year that hasn't prioritized it," said Wein, of Mlegal Consulting Inc. "It's always tough to move these people.... That's the thing."

California-based IP transactional lawyers who advise life sciences companies said a number of factors keep their numbers low and their lateral movement slow. Many lawyers simply don't have the necessary scientific training. For others, the more easygoing in-house counsel lifestyle is a strong draw.

The rare attorneys at law firms who do fit the bill say the practice requires a great deal of coordination that can result in IP lawyers not being the first point of contact for a client. This can keep some attorneys grounded, they say.

According to Seattle-based Fenwick & West LLP life sciences co-chair Steven M. Graham, IP transactional attorneys rely greatly on their cohorts to bring work in, meaning they don't typically have the mobile book of business needed for lateral movement.

"The opportunities to be the primary point of contact are less for IP transactional attorneys," Graham said. "Therefore it becomes difficult to move, because they're not the ones in board rooms, they're not the ones who are primarily responsible for quarterbacking a team."

But for Menlo Park-based Latham & Watkins IP transactional partner Judith Hasko, the choice to stay with Latham isn't so much being stuck as it is appreciating a fully developed team familiar with the industry.

Hasko doesn't have to worry about being locked in, because she's become the primary contact for several clients that she works with.

"It's a little subtler," Hasko said. "Having a team that has an interest level and experience in working with these companies is very valuable not only to me and the corporate attorneys I work with, but also super valuable to the client."

Hasko gained clients like Dublin, Ireland-based Prothena Corp. and Cambridge, Mass.-based Sarepta Therapeutics Inc. from previous relationships developed at Cooley LLP, which she left in 2006, and through working with licensing lawyers at Gilead Sciences Inc.

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Those kinds of relationships are rare for a lawyer in her practice, said Hasko's colleague Alan C. Mendelson, who handles corporate financing for the shared clients between he and Hasko.

"Historically, if you looked at my practice, you would've seen 'OK, Mendelson brought that client in, and now Judith is on licensing,'" Mendelson said. "But in a couple of cases, she's been the initial call."

Hasko said her practice is simply evolving with a better reputation through better work but that many deals still come from other attorneys. Even when she is the first point of contact, she can't do a deal entirely on her own, she said.

Mendelson added that lawyers like Hasko are rare for another reason: The complexity of the work involves either a special education or a willingness to dive deep into the industry.

"As the industry has matured, so have the clients' expectations and the nature of the products involved," Mendelson said. "The practice requires someone who has a strong scientific background or someone willing to dive into the science."

So far this year, more than a dozen biotechnology companies nationally have



Sam Attal / Special to the Daily Journal

Latham & Watkins LLP partner Judith Hasko focuses on intellectual property transactions, a practice area in which many firms are seeking — and struggling — to attract lateral moves.

filed to go public, including Watertown, Mass.-based Dicerna Pharmaceuticals Inc., which listed in January. The company's shares traded up 207 percent on opening, despite having no products immediately available for clinical trial.

Both venture capitalists and large phar-

"A lot of people in this practice end up training in-house at pharmaceutical companies," she said. Hasko herself spent a few years as a scientist inside Genentech Inc.

Los Angeles-based Nixon Peabody LLP office managing partner Seth D. Levy said he witnessed the same pull into in-house roles. He said large pharmaceutical companies that need licensing work just turn in-house after the work becomes too cumbersome.

"It's no different with IP transactional than it is with other practices," he said. "When a company becomes busy enough in one particular area, the economics at play bring the legal functions in-house."

East Palo Alto-based Ropes & Gray LLP associate Megan R. Baca said associates in her practice get calls to go in-house from headhunters and pharmaceutical companies much sooner than inside other practices.

"I've seen attorneys who have just completed their second and third year having opportunities come up in-house," Baca said. She added that she's stayed at a firm despite numerous calls from pharmaceutical companies because she just likes the lifestyle more.

"It's just a question of, 'What kind of job do you want to have?'" Baca said. "In-house starts to look attractive to some associates over time given their competing demands in life and family needs, and based on geography."

Levy said he, too, likes law firm life more than working in-house.

"I really enjoy working at a firm," Levy said. "I never thought I'd be the kind of guy to say that."

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