

## WilmerHale Client Incyte Secures Deals with Novartis, Eli Lilly

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Represented by WilmerHale, drug discovery and development company Incyte Corporation recently signed two separate licensing deals, one with Novartis and the other with Eli Lilly and Company, totaling up to \$2 billion in potential payments.

In November, Incyte entered into a collaboration and license agreement with Novartis for two of its investigational hematology-oncology therapies, for which Incyte received an upfront payment of \$150 million, plus an immediate \$60 million milestone payment, up to \$1.1 billion if future development and commercialization milestones are achieved, and royalties on future sales.

And in December, the company entered into an exclusive worldwide license and collaboration agreement with Eli Lilly for its JAK1/JAK2 inhibitor for inflammatory and autoimmune diseases. For this deal, Incyte received \$90 million up front, up to \$665 million in potential milestone payments, and royalties on future sales.

WilmerHale's efforts to finalize these agreements were appreciated by the client. "The quality of the work was really superb," says Incyte Executive Vice President and General Counsel Patricia Schreck. "You expect good quality, but when you're juggling multiple partners, continuous quality really stands out."

Almost a year ago, Wilmington, Delaware-based Incyte sought out a law firm to help with what the company knew would be an intense period of licensing activity. Its "crown jewel" treatments for cancer and inflammatory and autoimmune diseases were moving through the critical stages of development, and it was looking for pharmaceutical companies to partner with on further development and commercialization. One of the company's main requirements was finding a law firm with a large enough practice group to conduct simultaneous negotiations with a number of potential partners.

"We anticipated that there would be multiple bidders, so we knew we needed a deep bench," says Schreck. "WilmerHale has a really deep bench of great people, and the core team of partners did an excellent job of staffing the various potential transactions." She says the "knowledgeable and efficient" WilmerHale lawyers also worked well with Incyte's other outside attorneys, noting that "they were good team players."

WilmerHale Partners [Steve Singer](#) and [Fred Server](#) of the [Technology Transactions and Licensing Practice Group](#) led the Incyte team, which also included Partner [Steve Barrett](#), Counsel [Kim Wade](#) and Soojin Chung, and Senior Associate Jerry Marr.

“By virtue of having to get people up to speed quickly, we not only needed to draw on a number of the firm's experienced transactional attorneys, but also had to rely on the uniformity of practice in our group,” says Server. “If one of our attorneys had to step in for another on short notice, it was a seamless continuation of our representation and not a disruption.”

That sense of continuation became more important as more potential partners materialized. Fairly early on, the team began simultaneously drafting, negotiating and revising what were ultimately numerous different agreements. “The primary responsibility for keeping all the drafts going—for awhile, literally every day brought a new negotiating session followed by a revised agreement—fell on Kim Wade,” says Singer. “She never dropped the ball and unfailingly displayed a 'can do' attitude in the face of incredibly heavy demands and very tight timelines, which was much appreciated by the client.”

Singer added: “Companies often do auction-style negotiations where they are working with two or three different prospective licensees or acquirers, depending on the nature of the transaction. But at some point, towards the end of the process, it usually gets narrowed down to one or two. In this case, at the very end of one of the transactions, it was four.”

According to Incyte Executive Vice President and Chief Commercial Officer Pat Andrews, the company appreciated the WilmerHale legal team for more than drafting and facilitating the negotiation of the transactions. Singer and Server in particular have experience working with and at biotechnology companies and possess the business sense that comes with that experience.

“Steve is more than just the lawyer at your side; he brings an excellent business perspective. Steve and Fred also worked extremely well together, with lots of good tradeoffs back and forth and very complementary ways of looking at things. It was remarkably seamless.”

The attorneys were pleased that the agreements turned out as they did, and hope to work with Incyte on future licensing deals in 2010. According to Andrews and Schreck, the feeling is mutual. “They were great to work with,” they say. “WilmerHale was a pleasure from beginning to end.”