

## Review of 2003 Corporate Experience

2004-01-01

This past year was marked by signs of economic recovery—improving capital markets, strength in the life sciences sector, a continued focus on corporate governance and the increasingly global nature of the financial markets. Each of these trends impacted our corporate practice in 2003.

We opened new offices in London, Oxford and Munich; extended our leadership in initial public offerings, Rule 144A placements, PIPEs financings and venture capital transactions; firmly established our preeminence in counseling life sciences companies in strategic alliances and other corporate transactions; and helped our clients understand and implement numerous new disclosure and corporate governance requirements.

### Venture Capital

Venture financing transactions remained a cornerstone of our corporate practice, reinforcing our longstanding focus on technology, life sciences and entrepreneurial companies. During 2003, we served as company counsel in more than 150 venture financings raising more than \$1.75 billion, including more venture capital financings by companies based in the eastern half of the US than any other law firm in the country.

We helped many current and future market leaders obtain venture financing in 2003, including:

In life sciences:

- **Alnylam Pharmaceuticals** (\$24,600,000)
- **BioVex** (£17,000,000)
- **Critical Therapeutics** (\$56,000,000)
- **GenPath Pharmaceuticals** (\$42,700,000)

In software:

- **Deploy Solutions** (\$21,000,000)
- **Incipient** (\$25,000,000)
- **Netezza** (\$20,000,000)
- **Optiant** (\$15,500,000)

In telecom and wireless:

- **Acopia Networks** (\$30,000,000)
- **Axiowave Networks** (\$45,000,000)
- **Quantum Bridge Communications** (\$20,000,000)
- **Starent Networks** (\$23,000,000)

### Public Offerings/Rule 144A Placements

For more than a decade now, we have been the leading law firm in the eastern U.S. for IPOs. In 2003, we handled six IPOs and over 30 other public offerings and Rule 144A placements raising over \$5 billion, including U.S. offerings, European offerings and cross-border offerings. We were company counsel in more IPOs and Rule 144A placements by companies based in the eastern half of the U.S. than any other law firm in the country.

- **Akamai Technologies** (\$175,000,000 Rule 144A note offering)
- **DoubleClick** (\$135,000,000 Rule 144A note offering)
- **First Marblehead** (\$230,000,000 IPO)
- **Keane** (\$150,000,000 Rule 144A debenture offering)
- **NitroMed** (\$61,380,000 IPO)
- **Open Solutions** (\$87,946,080 IPO)
- **Sepracor** (\$750,000,000 Rule 144A note offering)
- **Staples** (\$252,861,540 common stock follow-on offering)
- **The Medicines Company** (\$97,952,400 common stock follow-on offering)
- **Yankee Candle** (\$216,626,644 common stock secondary offering)

We also represented the underwriters in public offerings by Acusphere, Cubist Pharmaceuticals, EPIX Medical, Progenics Pharmaceuticals and PS Business Parks, among others.

### PIPEs Financings

PIPEs, or Private Investments in Public Equity, proved once again to be a viable financing tool for many post-IPO companies, particularly small-cap and mid-cap technology and life sciences companies. We were company counsel in more PIPEs financings by companies based in the eastern half of the U.S. than any other law firm in the country.

### Mergers and Acquisitions

We advised clients on more than 100 M&A transactions in 2003. Most of these deals benefited from key contributions by our colleagues in specialty practice areas, and several important cross-border transactions leveraged the M&A experience of both our U.S. and European offices. Some of the year's highlights included:

- **Bookham Technology's** acquisition of New Focus in a transaction valued at \$330,500,000
- **CMGI's** sale of AltaVista to Overture Services for \$140,000,000 in cash and stock
- **LTX's** acquisition of StepTech for an undisclosed amount
- The acquisition of **Manufacturers' Services** by Celestica for \$293,000,000 in cash and

stock

- **Red Hat's** acquisition of Sistina Software for \$31,000,000 in stock
- **SpeechWorks International's** stock merger with ScanSoft valued at \$132,000,000
- **uDate.com's** acquisition by USA Interactive for \$150,000,000 in cash
- **Winphoria Networks'** acquisition by Motorola for \$175,000,000 in cash
- Various other M&A transactions for clients such as **Bottomline Technologies, CCBN, DoubleClick, Genaissance Pharmaceuticals, IDX Systems, Keane, MapInfo, MKS Instruments, Netegrity, Parexel International** and **Thermo Electron**

### Strategic Alliances and Licensing Transactions

Clients turned to us for counsel in hundreds of strategic alliances, joint ventures and licensing transactions—many of which required close collaboration among our corporate, licensing, intellectual property and tax lawyers. Some of these deals are helping to shape the future of science and technology:

- We advised **Analog Devices** on a wide variety of domestic and international product development, supply, OEM, license, cross-license and outsourcing agreements.
- **GenPath Pharmaceuticals** relied on us to handle its collaboration agreement with Merck, valued at up to \$100,000,000, to identify targets for the development of small molecule oncology agents.
- We represented **IGEN International** in its license of electrochemiluminescence technologies to Roche Diagnostics.
- We advised **Infinity Pharmaceuticals** on a collaboration and license agreement providing Amgen with access to Infinity's proprietary small molecules for drug development.
- **Mentor Graphics** turned to us for guidance on various international software licensing transactions.
- **Millennium Pharmaceuticals** retained us to handle its \$535,000,000 collaboration agreement with Ortho Biotech for the commercialization and continued clinical development of Millennium's VELCADE cancer therapy.

On a sad note, we mourn the tragic loss of our friend and colleague Ken Slade, who died on March 21, 2004. Ken was widely known and highly respected as a leader in the technology and life sciences community, both nationally and internationally, and made significant contributions as a leader of our licensing and Internet law practices. He will be deeply missed.

### Investment Management Group

The firm's Investment Management Group experienced another active year. We assisted mutual fund clients in refining and expanding their product lines in a challenging market environment, advising on numerous fund reorganizations, innovative new products, closed-end funds and fund acquisitions. We represented closed-end funds in public offerings raising approximately \$2.5 billion for John Hancock Advisers and Pioneer Investment Management. Clients looked to us for guidance on matters involving regulatory inspections, inquiries and formal investigations including several in response to the late trading and marketing timing scandals that affected the industry during the year.

Our team of lawyers also assisted clients on corporate governance issues, helping them adjust to a new regulatory environment, and added to our strong client base of separate account and hedge fund managers.

### **European Expansion**

Committed to building a significant European practice, the firm added offices in London, Oxford and Munich in 2003 and welcomed nearly 40 corporate and licensing lawyers with expertise in cross-border transactions for technology and life sciences clients. Our European corporate practice includes venture capital, public offerings, mergers and acquisitions, licensing and strategic alliances. Corporate lawyers in our London and Oxford offices counsel a wide range of technology and life science companies as well as investment banks and venture capital firms. Our corporate lawyers in Oxford have considerable experience in advising university spin-out companies. Our Munich office serves the technology and life science communities in Munich and the Isar Valley area.

### **Start-Up Company Practice**

Our start-up company practice thrived across all offices this year, reflecting our longstanding commitment to emerging companies, our expansion in Europe with offices in technology and university centers, and improving venture capital market conditions. The **Hale and Dorr Venture Group (HDVG)**, headquartered in Waltham, Massachusetts, continued to focus exclusively on start-up companies, and added lawyers and clients throughout the year. While start-ups remain a staple of the entire firm, HDVG has attracted many promising start-ups since its founding in 2000.

### **Public Company Leadership**

Our long-time leadership in counseling public companies again received special recognition in 2003. Based on a nationwide survey of 2,000 directors of public companies, *Corporate Board Member* magazine ranked Hale and Dorr as the top corporate law firm in Boston for the second consecutive year.

In 2003, we welcomed a number of new public company clients, and now serve as primary outside corporate counsel to approximately 125 public companies in the U.S. and Europe. As Congress, the SEC and the major stock exchanges continued revamping many of the securities laws and regulations that public companies must follow, we helped our clients to adjust to the new disclosure and corporate governance environment without being unduly distracted from their businesses.

Paul P. Broutas, senior counsel to the firm, published *Boardroom Excellence: A Common Sense Perspective on Corporate Governance*, drawing on his experience as outside counsel to several hundred corporations and his attendance at thousands of board and board committee meetings during his illustrious 43-year career at Hale and Dorr.