

Life Sciences Group Of The Year: Dechert

By Adam Lidgett

Law360 (February 24, 2023, 2:03 PM EST) -- Dechert LLP's life sciences practice group helped Endo Pharmaceuticals get wins in litigation over its Opana ER painkiller, and also aided Tiziana Life Sciences in a complex transaction, earning the firm a spot among Law360's 2022 Life Sciences Groups of the Year.

In July, an Illinois jury sided with Endo Pharmaceuticals, rejecting allegations that it struck an unlawful settlement with Impax Laboratories to delay a generic version of Endo's Opana ER painkiller and finding the deal did more to boost competition than stifle it.

The verdict capped a three-week trial in multidistrict litigation targeting the underlying 2010 settlement as an allegedly anti-competitive deal that forced Opana ER buyers to pay higher prices for the brand name when a cheaper, generic version could have been available to them sooner.

Julia Chapman, a Philadelphia-based partner and a Dechert litigation attorney, told Law360 that the win for her client Endo was exciting and a very rare example of a reverse payment case that not only went to trial, but to a verdict.

"Because a trial is so rare, it's uncommon you have a jury addressing the question of the rule of reason to the license agreement that plaintiffs challenge," Chapman said.

Chapman said she and her team were excited to see how the record of the case they built "allowed the jury to understand how the license agreement actually operated in the market." She said the potential damages in the case could have been significant.

"One of most important things there was the fact that the jury was able to understand that these license agreements that are frequently subject of litigation can have a pro-competitive benefit that helps consumers," Chapman said.

Additionally, the firm helped out biotechnology company Conagen Inc. in intellectual property lawsuits involving Swiss multinational Givaudan SA.

New York-based partner Katherine A. Helm said Conagen had a major win against Givaudan in New York federal court in July in a long-running dispute that spanned several courts.



Helm said the firm obtained a determination in Conagen's favor that Givaudan — a manufacturer of flavors and fragrances — provided confidential information to a third party. She said the firm also got a win on Givaudan's own claims on things like breach of contract in another case.

Helm said the synthetic bio industry is an up-and-coming area for issues such as trade secrets.

"Always in trade secrets claims and violations, it's just a really tricky area in how you're protecting your IP," Helm said. "It would sort of benchmark the industry standard for what constitutes a confidentiality breach under these agreements."

David S. Rosenthal, a New York-based partner who co-heads the firm's life sciences group, said that on the corporate side, the firm handled a transaction that closed in October 2021 in which Tiziana Life Sciences moved from being on both the Nasdaq in the U.S. and the London Stock Exchange in the U.K., to just the Nasdaq.

"It was a great opportunity to show our ability to be creative and thoughtful and address a client's concerns," Rosenthal said.

He called it a "creative solution, a relatively unique solution, to enable them to leave the U.K. market and trade shares only on Nasdaq." Part of the work involved migrating the company to Bermuda, he said.

Rosenthal said the firm does have a specific life sciences group, but that what makes the group interesting is that it's quite diverse and can address cradle-to-grave issues for life sciences companies.

He said the practice encompasses everything from startup venture capital to various kinds of financing on transactional issues and big product liability matters for pharmaceutical companies.

The life sciences practice touches on areas like intellectual property — including patent prosecution, litigation and counseling — but also the antitrust side of things, Rosenthal said.

He added that there are about 200 attorneys across 13 of the firm's 21 offices who deal with life sciences matters. They are scattered across various offices, including those in Austin, Texas; Boston; Brussels; Chicago; London; Los Angeles; Munich; New York; Paris; Philadelphia; San Francisco; Silicon Valley and Washington, D.C.

Rosenthal said the life sciences arena is one of the main focuses of the firm, and has long been so because of its diversity and breadth.

"It really enables us to really cross-fertilize and cross-sell the various services that we have," Rosenthal said.

Helm said the areas that form the life sciences group are under a larger umbrella, which she said made Dechert more diverse than other BigLaw firms that work in the life sciences practice. For example, she said that in intellectual property cases, the firm does litigation but also has a roster of numerous IP attorneys.

"I work with and utilize those resources all the time," Helm said of the other practices.

--Editing by Linda Voorhis.
