

REGIONAL NEWS

Duane Morris Helps Ink Another Pharma Deal

DEAL MAKERS

BY GINA PASSARELLA
Of the Legal Staff

Duane Morris' work on the sale of startup company client **Vicept Therapeutics** is evidence that one good deed can lead to another, or, perhaps, one good deed to another.

Philadelphia-based corporate partner **Yves Quintin** led the firm's work in 2009 and 2010 on the \$350 million sale of client **Ception Therapeutics** to pharmaceutical company **Cephalon**. That deal also provided the potential for an additional \$500 million in milestone payments.

Around the same time, one of Ception's board members, **Dr. Neal Walker**, asked Duane Morris to help him start his own new venture, Vicept. Since Vicept's creation in 2009, Duane Morris has served as corporate counsel, helping with two phases of venture capital fundraising and now the relatively quick move to the planned sale announced last month to California-based health care company **Allergan Inc.**

Though smaller in scale than the Ception deal, the Vicept sale is similarly structured. Allergan has agreed to pay \$75 million in cash up front with an additional \$200 million in potential future milestone payments

if certain development, regulatory and sales goals are met, according to a press release the companies issued.

The main asset of Vicept is its V-101 product, a topical cream for the treatment of skin redness associated with rosacea. The drug has been through two Phase II clinical trials and it will be up to Allergan whether the company will do a broader Phase II trial or move on to a Phase III trial, Quintin said.

"A turnaround in less than two years, it's kind of unusual and exceptional," Quintin said of the sale of Vicept. "Particularly in a pharmaceutical industry where the clinical trials can take a long time and the results are certainly less than guaranteed."

Even successful clinical trials could be rejected by the FDA and required to be repeated, he said.

"So it is unusual," he said. "The difference, however, is that this was a 'derm' drug, so it's not the same field as obviously cancer or the like, so it's probably an area where you have a little bit less difficulty in terms of reaching successful clinical trials."

Quintin pointed out that starting out with a strong compound like Vicept did make a

faster sale all the more feasible. He couldn't get into details of how the sale came to be, but said, "Clearly it was known in the industry that Vicept was having success with this compound and so that attracted interest from other players in the industry and Allergan was probably the most determined."

The deal, like any other, had its minor challenges in reaching terms agreeable to both sides, Quintin said. The main issue in these types of pharmaceutical deals is what rights

the target has to the underlying asset.

The pharmaceutical industry has followed,

perhaps in greater numbers, the trend of strategic buyers remaining active in an otherwise slow deal market.

"The industry is facing a situation where many, many, many drugs are going to be coming off patent, so quite a few companies are out there trying to kind of rebuild their pipeline," Quintin said. "So what we're seeing is ... a number of situations where large companies or fairly large companies are trying to ... get a hold of promising assets that have been progressed by the company and for one reason or another the company that owns the asset is willing to sell the asset or

be sold."

And if the seller's stockholder base is composed mainly of venture capital owners, as was the case with Vicept, then they often have a three- to five-year window in which they are looking to turn that asset around, Quintin said. The acquirers are typically strategic buyers, he said, because it is rare for a private equity company to want to come in and acquire a drug in later stages of development and be willing to take it through trials.

Quintin said the Ception and Vicept deals illustrate "the fact that the Greater Philadelphia region is very dynamic when it comes to startup companies in the pharmaceutical industries."

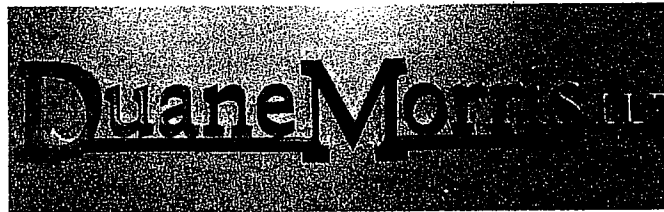
And as to selling off his client, Quintin has learned that owners of these venture capital-based startups often quickly move on to new ventures, creating opportunities for all involved.

DEAL DETAILS

Vicept is a privately held company backed by investors **Vivo Ventures**, **Fidelity Biosciences** and **Sofinnova Ventures**. Allergan is a public company that began as an eye care company and has since migrated into several medical specialties, including ophthalmology, neurosciences, obesity, urologics, medical aesthetics and dermatology.

The deal between the two companies is

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slated to close in the third quarter of 2011.

"The two Phase II studies demonstrated the clinical potential of our lead product V-101 in Type I rosacea (Erythematous Rosacea), a dermatological problem for which there currently is no approved therapy," Walker, president and CEO of Vicept, said in a statement. "We believe Allergan is the best company to complete the

development and make the therapy available to the clinical community and their patients, fulfilling our shared mission."

Aside from V-101, Vicept has been pursuing development of topical agents for the treatment and prevention of a number of medical and cosmetic indications including bruising of the skin.

The Duane Morris team consisted of Quintin, corporate associate **Mehrin Masud-Elias**, tax partner **Stephen DiBonaventura**, employee benefits partner **John A. Reade Jr.**, corporate associate **Benjamin A. Haverstick** and summer

associate **Ryan O'Neil**. All of the attorneys are based in Philadelphia except for Haverstick, who is in Duane Morris' New York office.

Latham & Watkins represented Allergan in the deal. That team was led by California-based corporate partners **Michael A. Treska** and **Cary K. Hyden** and associate **Scott M. Akamine**. Treska didn't return a call for comment by press time.

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