

Life Sciences Group Of The Year: Gibson Dunn

By Kevin Penton

Law360, New York (January 5, 2016, 11:09 PM ET) -- Gibson Dunn's life sciences practice scored a last-minute injunction for Sanofi-Aventis in a complex battle over an insulin injection device and protected the company from allegations it overcharged the U.S. hundreds of millions of dollars for another drug, earning the firm a spot on Law360's Practice Groups of the Year.



Gibson Dunn, one of only three entities named as Law360's Firms of the Year after securing 10 overall Practice Group of the Year awards, also devoted a sizable amount of its life sciences resources to transactions, including its representation of Depomed Inc. as it successfully warded off a hostile takeover bid by Horizon Pharma PLC. Attorneys demonstrated to a California state judge that Horizon was improperly using confidential information.

While Gibson Dunn officials say the firm has worked on life sciences matters for decades, it only formally organized the practice into a group in 2011. Initiated with 40 attorneys, the group has since mushroomed to include approximately 106 attorneys, in part through strategically adding lateral partners with expertise in the practice, co-chair Tracey Davies said.

"The firm expects to continue to see this as a robust practice area with continued expansion of work in the practice over the coming years," Davies said.

In September, Gibson Dunn attorneys representing Sanofi-Aventis U.S. LLC secured a last-minute settlement in a Hatch-Waxman patent case the company had filed against Eli Lilly and Co. involving a pen-like device that injects insulin glargine, an altered form of insulin.

The complex matter, which kicked off after Lilly told Sanofi it intended to market a competitor to its existing Lantus SoloSTAR device, featured two innovative giants at odds with each other, a fight over a product that millions of people with diabetes could utilize and challenges to multiple sets of patents, said Davies, who worked on the case.

"The combination of those factors made it a very, very challenging case," said Davies, who noted the deal was struck just as opening arguments were about to begin. "It was really down to the wire."

Lilly agreed to both pay royalties to Sanofi for a license to five patents asserted in the matter and to an injunction on the U.S. release of its competing product until December 2016, with the rest of the settlement's terms kept under wraps, according to the Sept. 28 consent judgment.

In another major case in which it represented Sanofi, Gibson Dunn attorneys demonstrated to a California federal judge in July that Amphastar Pharmaceuticals Inc.'s False Claims Act suit should be tossed, as the company lacked standing to bring the case because it was not the "original source" of information that Sanofi's U.S. patent for its anticoagulant drug Lovenox was closely related to a European patent, also held by Sanofi.

While an Amphastar official testified that experiments his company conducted while preparing a 2003 abbreviated new drug application led to the discovery, U.S. District Judge Marvin J. Garbis determined the company likely came across the information during discovery of the patent infringement suit Sanofi filed over the ANDA that same year against Amphastar and fellow generic drugmaker Teva Pharmaceuticals USA Inc.

Because the distinction made Amphastar an unoriginal source of the information under the FCA, it was legally barred from pursuing the suit.

Amphastar had claimed that because Lovenox was allegedly approved under false pretenses, Sanofi overcharged federal and state governments hundreds of millions of dollars for the drug, known scientifically as enoxaparin.

"It was a novel theory that got attention in and of itself," Davies said.

In Gibson Dunn's representation of Depomed, Horizon ended its hostile takeover attempt of the company on the same November day that a California state court judge issued a preliminary injunction barring the prospective buyer from using information that Depomed claimed was confidential.

Gibson Dunn attorneys argued that Horizon was basing its bids for Depomed in part on information it had obtained as part of a previous bidding process for Janssen Pharmaceuticals Inc.'s Nucynta, a painkiller purchased by Depomed for \$1 billion.

While Horizon legitimately obtained the confidential information as part of its unsuccessful bid for Nucynta, it legally could not then turn around and use the same data as it tried to acquire Depomed, said life sciences co-chair Ryan Murr, who worked on the case.

"We demonstrated that they were misusing the information," Murr said.

Founded in 1890, Gibson Dunn has 1,300 attorneys who work out of 18 offices in the U.S., Europe, the Middle East, Asia and Latin America, according to the firm. It is headquartered in Los Angeles.

--Additional reporting by Bryan Koenig and Dani Kass. Editing by Catherine Sum.