

Website gives lawyers leg up on big pharma

Resource of biotech licensing deals enables negotiators to understand where pharmaceutical giants are flexible

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Your biotech licensing deal is minutes from falling through. Does your lawyer have the capacity to bring it back from the brink?

Farris, Vaughan Wills and Murphy LLP partner James Hatton is doing his best to ensure that the answer is yes.

Hatton is one of Vancouver's more established biotech lawyers. He helped client **Cardiome Pharma Corp.** close a licensing deal April 8 with **Merck & Co. Inc.** that, if all milestones are met, will be worth \$1 billion. That would be the largest licensing deal ever to involve a Canadian life sciences company.

In his spare time, Hatton created a website that neatly compiles publicly available information detailing biotech licensing deals in a searchable format (www.delicious.com/JamesHatton/agreement).

His rationale for creating the resource was to level the playing field between small research-based ventures and multinational drug companies.

Pharmaceutical giants almost always have the upper hand when they negotiate deals with small biotech firms.

But, when biotech lawyers are armed with Hatton's database, they can head into negotia-

tions with a better sense of where wriggle room exists.

That helps them get deals done faster, with less angst and with terms more favourable to their biotech client.

Big pharmaceutical giants, such as **Eli Lilly and Co.** (LLY:NYSE), **Pfizer Inc.** (PFE:NYSE) and **Novartis AG** (ADR:NYSE), all have experienced legal teams. In contrast, small biotech companies are likely to only ever do one or two licensing deals.

To get biotech lawyers up to speed, Hatton's bookmarking site links to documents such as collaboration agreements.

These agreements are usually material to the pharmaceutical giant's stock price and are therefore available from the **U.S. Securities and Exchange Commission.**

Hatton's site lists 286 collaboration agreements. He also sources other documents from various sources and enables them to be arranged on his bookmark site either alphabetically or by date.

Click on the type of agreement or the name of the party and dozens of full-text agreements are available for review.

"There are a hundred things to argue about in one of these negotiations; but with preparation we



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Farris, Vaughan Wills and Murphy LLP partner James Hatton has a social networking site that helps lawyers and others understand commonalities in biotechnology licensing transactions

make most of the potential arguments go away before they even arise," Hatton said.

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- James Hatton, partner, Farris, Vaughan Wills and Murphy LLP

He noted that because he had done his homework going into the Cardiome and Merck deal, he was able to get a better result faster.

For example, Hatton said his team was able to:

- meet Merck's need to control aspects of development and commercialization while giving Cardiome the input it wanted and the ability to access information;
- track what he considered reasonable language from previously disclosed Merck agreements on contentious elements such as the consequences of termination; and
- understand how Merck tended to like calculating royalty payments and glean where Merck might be flexible.

"Understanding where Merck could be flexible

really helped us get to a good result," he said.

Lang Michener LLP partner **Leo Raffin** likes the fact that Hatton has taken the initiative to help the city's biotech lawyers.

"One of the first things we do is go out and put our compilation together of comparables when we have a new transaction on the go," said Raffin, who has worked on deals such as the 2008 merger between **Tekmira Pharmaceuticals Corp.** and **ProTiva Biotherapeutics Inc.**

"That would certainly help us to be able to go to a site like James'. That would be a first start for our research." ■
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