

M&A MVP: Covington's Scott F. Smith

By **Alex Ortolani**

Law360, New York (November 28, 2011, 3:39 PM ET) -- When King Pharmaceuticals Inc. was working on a possible combination with Pfizer Inc., Covington & Burling LLP partner Scott F. Smith had the right deal-making expertise for the specialty drug maker to tap him for what became a \$3.6 billion merger, helping to earn him a spot on Law360's list of M&A MVPs.

Smith assisted King in merging with Pfizer so the world's largest drugmaker could have access to King's patented pain medications that are designed to be resistant to non-medical use by addicts. The deal was crucial to Pfizer as part of the company's effort to expand its pool of lucrative drugs in preparation for losing patent protection on its blockbuster cholesterol fighter Lipitor at the end of November.

"We were brought in because of the whole package of things we have done for the industry," Smith said.

The whole package includes Smith's advising a team for Procter & Gamble Co.'s \$3.1 billion sale of its pharmaceutical business to Warner Chilcott PLC in 2009, as well as biopharmaceutical company Medarex Inc. in its \$2.4 billion merger with Bristol-Myers Squibb Co. in the same year. Covington's success in the pharmaceutical and life sciences space comes partly from the firm's mergers and acquisitions practice and partly from its expertise in the often tricky world of intellectual property.

"We have one of the deepest IP and patent litigation practices around, which is important in the life sciences world," Smith said.

Smith, who started practicing in the early 1980s at Sullivan & Cromwell LLP, left after about four years to become a partner at boutique firm Howard Smith & Levin LLP. While at the smaller firm, Smith built up his experience doing M&A in a range of sectors.

"I had entrepreneurial instinct, and in that role I was really helping to build the practice," he said.



Scott F. Smith

In 1999, he and his partners joined Covington in part because of its deep client pool and expertise in regulatory law.

Now, Smith's New York-based practice is well placed to work on numerous deals for pharmaceutical and biotechnology companies as their patents on drugs run out in coming years.

"The life sciences is a very active space," Smith said. "They have all faced failed research and there are many products coming off patent."

Smith said a key aspect to counseling on such deals was to present the client with the best possible information on the company with which it was seeking to do a deal, which sometimes means taking on intellectual property litigation.

"They need all the information they can [get] to evaluate the important issues," he said. "Sometimes the biggest challenge is getting the company comfortable."

Smith, a graduate of the University of Texas School of Law, has also advised on deals in the domestic natural gas and oil sector.

In late 2010, he advised a special committee of the board of directors of Atlas Holdings LP, a midstream natural gas company, in a \$250 million acquisition of upstream oil and gas assets from its parent, Atlas Energy LP.

Earlier this year, Smith helped SandRidge Energy Inc., an oil and natural gas producer based in Oklahoma, in a \$1.6 billion acquisition of Arena Resources Inc., an oil and gas exploration and production company.

Smith also does extensive work in the financial and healthcare sectors.

He recently advised Craneware Inc., a revenue integrity company for healthcare providers, in its acquisition of ClaimTrust Inc., a revenue cycle technology solutions provider. The deal was for a price ranging from \$15 million to \$19.5 million, according to Craneware.

In the private equity field, Smith advises firms such as Charlesbank Capital Partners LLC, which has over \$2 billion in assets, and HealthpointCapital LLC, which manages over \$750 million.

In the coming years, Smith expects his work among financial institutions to increase as M&A activity picks up among U.S. regional banks, many of which will continue to consolidate in the wake of the financial crisis.

"For many of them it will be a case of acquire or be acquired," Smith said.

Whatever the next transaction Smith works on, he will continue to leverage his experience in deals with the skills of his colleagues at Covington, especially in the firm's work as a negotiator in the life-sciences industry.

"Frankly, we have been successful in the sector because we can combine good M&A skills with deep, substantive knowledge of the field," Smith said.

--Editing by Cara Salvatore.

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