

LEGAL NOTES

Moving at the Speed of Light

John J. Egan of Goodwin Procter has had a busy schedule lately, helping to boost the firm's West Coast presence and going on a 150-mile bike ride

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Contributor

In nature, light travels at 186,000 miles per second. In venture, lightning speed is 60 days. That's how long it took **Hewlett-Packard** to acquire business analytics company **Vertica Systems** in February.

Terms of the deal weren't disclosed, but Boston attorney **John J. Egan**, one of the heads of **Goodwin Procter's** Technologies Company Group, described it as "a huge home run" for investors. The Billerica, Mass.-based company develops software that provides real-time business analytics for gigantic databases, run by such clients as **Twitter** and **Groupon Inc.**

Egan says that he and Vertica CEO **Christopher Lynch** worked closely and rapidly to get the deal done. Lynch, who joined Vertica in 2010 from **ArrowPoint Communications**—which **Cisco** bought in 2000 for \$5.7 billion—had spent a year repositioning Vertica. When HP came a calling, Lynch and Egan hammered out the acquisition's details without an investment banker.



"I was providing a much bigger role in terms of a sounding board," Egan says, "Thinking through strategy and what the right outcome was."

The attorney thrives on providing that thoughtful 360-degree counsel. About 80% of his clients are companies in health care IT, technology, life sciences and mobile applications. Goodwin Procter's tech practice has about 140 attorneys, with half in a rapidly growing Silicon Valley office. Egan spent nearly two months in California last year, logging 13 back-and-forth, red-eye flights, to boost the firm's West Coast presence.

Each week he says he attends four to six board meetings and closes a venture financing or two. He feels he's most valu-

able as a sounding board and strategic advisor, who can provide a rich perspective on the IPO market, the competitive landscape and strategic developments.

Bankers' Roles

As the Vertica deal showed, bankers may no longer be as vital to closing deals, Egan says. Traditionally, a banker would put together a book, help make connections and handle an auction. But in venture, "the best companies don't get sold. They get bought," Egan says. In private deals, bankers are coming into the picture later, if at all.

Egan is seeing more clients tap bankers' expertise on an as-needed basis, such as before an IPO.



"If you're a private company that's doing well and your vision is you're going to be a significant public company," he says, "that's usually the best way to negotiate with a big buyer, as opposed to saying, we're for sale and the question is price and terms."

Working Backwards?

Boston has become a powerhouse for life sciences companies, and the dynamic of company creation has been turned on its head. The standard formula for launching a viable business started with a professor, researcher or entrepreneur with a marketable idea or product. Their institution's licensing office then joined forces with a VC team to transform a concept into a saleable product.

"Now, we're seeing some of the leading early stage life sciences VCs finding the technology themselves, pulling in a management team and incubating companies," Egan says.

A recent example is Goodwin Procter client **Third Rock Ventures**, which in April led a \$40 million Series A round of financing for **Blueprint Medicines**. The Cambridge, Mass.-based company, which specializes in targeted or personalized cancer therapies, is less than a year old. Egan's colleague, **Kingsley L. Taft**, was a key player in that deal.

Current M&A Climate

It's a great M&A market, according to Egan. He cites **Teradata Corp.**'s \$540 million acquisition in January of **Aprimo**, an Indianapolis-based company that makes marketing software and applications. Aprimo had put its IPO plans on hold in 2008 as the economy floundered, but was ready to launch again last fall when Teradata snapped it up.

In the past year, Goodwin Procter attorneys have been involved in about five sales to **IBM**, including **OpenPages**, a corporate governance and compliance software company, which was acquired last fall.

Other hot spaces include cloud computing, as businesses and consumers shift data storage to the cloud, and anything mobile. **Google** picked up Egan client New York-based **Admeld**, an ad optimization business, in June for a reported \$400 million.

Coming to Terms

Egan is seeing less participating preferred stock deals and more angel rounds, particularly in the social media space.

Credit—or blame—the fact that the cost of starting a company has plummeted in the past decade thanks to the ready availability of open source software and cloud services. Companies need less money, making it easier for them to get the terms they want.

"The world has become much more transparent," Egan says, "so it's easier to know the market and find people to help you."

Holding Down Legal Costs

Egan and his colleagues don't charge to attend the board meetings of early stage companies backed by private venture.

"It's a big selling point because a lot of times, decisions are being made at those meetings and there are legal implications," he says.

Goodwin Procter attorneys discount their fees on general ongoing matters and offer fixed-fee arrangements for Series A and seed venture financings. They'll defer legal fees for startups awaiting venture financing when they know the VCs involved.

The firm also offers new startups a wealth of free information on its Founder's Workbench (www.goodwinfoundersworkbench.com), which debuted last fall. Entrepreneurs can find everything they need on the site, from real estate advice to helpful links to websites and blogs. A document generator lets startups create bylaws, incorporate and produce common stock certificates.

The site cautions that none of its content should be construed as legal advice. For that, you need an attorney, perhaps one at Goodwin Procter. In the past six months, the firm has added a half-dozen clients who contacted the firm after visiting the site.

Compensation and Retention

Egan is seeing more buyers offering options and vesting packages crafted to retain critical talent. A decade ago, companies used the pooling of interest accounting method, which didn't permit changes to closely watched employee incentives, such as acceleration of options.

Now, with a huge demand for talent giving an edge to skilled executives and employees looking for the next big thing, buyers are willing to negotiate appealing retention packages.

The result is "a three-way dynamic between the buyer, the seller, the executive team. ... You're going to see more of that,"

Attorney at a Glance



John J. Egan

Age: 50

Hometown: A native of New Hampshire, he's lived in Boston for 30 years

Education: Undergraduate degree from Brown University in 1981; law degree from Boston University's law school in 1984

Experience: Clerked for a federal circuit court judge in Seattle from 1984 to 1985. He joined Goodwin Procter in 1985 and left in 1999 for McDermott Will & Emery. Goodwin Procter recruited him back six years ago.

On his night table: Andre Dubus III's "Townie: A Memoir"; Robert W. Merry's "A Country of Vast Designs: James K. Polk, the Mexican War and the Conquest of the American Continent"; and Jonathan Franzen's "Freedom: A Novel."

Hobbies: Spending time with his two sons, 13 and 15, biking, swimming, snowboarding. He recently spent 8.5 hours pedaling 150 miles from Boston to Vermont on a brewery-sponsored ride. "The good news is you end up at the brewery in Vermont. There's a big barbecue and cold beer, and that makes it worthwhile."

he says. "Five or six years ago, everyone wanted to work at [big companies like] Google, Cisco and Microsoft. Nowadays, large successful companies can't hold on to people because they're going to Facebook or Twitter or Zynga. So for them, retention is a very critical element."

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