

INSIDE IP

"FEARLESS" IS HER MIDDLE NAME

GlaxoSmithKline's head of IP, Sherry Knowles, is receiving bouquets for taking on the PTO.—By Xenia P. Kobylarz

It's not every day that Sherry Knowles gets a bouquet of flowers from Amgen Inc. or hundreds of e-mails from all over the world—thanking her for filing a lawsuit and winning an injunction. But the senior vice president and global head of IP at GlaxoSmithKline PLC didn't just file any ordinary lawsuit. Ever since the Patent and Trademark Office published new rules limiting claims and continuations in patent applications in August, patent attorneys have been anxiously waiting for a big company with a lot of resources to file a suit challenging the agency. But no one, except for one inventor, Triantyfyllos Tafas, appeared to be brave enough to earn the potential wrath of the patent office management.

Then in October, under the guidance of Knowles, Glaxo made its move, even though she has only been at the head of the pharmaceutical giant's 250-person IP division for little more than a year. Hiring a top-notch team of attorneys at Kirkland & Ellis, Glaxo obtained an injunction in federal district court against the patent office on the very eve of the new rules' scheduled implementation.

"We were a bit surprised and relieved that Glaxo took a public stand," says King & Spalding patent partner Becky Kaufman, who knows Knowles well. "I know in the ideal world you should not worry whether you could challenge something or not. However, we all depend on the patent office for our work. Sherry is fearless when it comes to advocating for her clients, and she knew that the new rules will really impact pharmaceutical companies like Glaxo."

Knowles headed King & Spalding's biotechnology IP practice for nine years in Atlanta previously to being recruited by Glaxo. Before her newfound celebrity in the patent community, she had already made a name for herself among biotech companies and research institutions around the country. In 2005 Knowles's

longtime client Emory University in Atlanta sold its stake in the HIV drug Emtriva for \$540 million to Gilead Sciences, Inc., and Royalty Pharma. The transaction was considered the biggest IP sale by a university to date. The Emory University chemistry professor who co-invented the drug, Dennis Liotta, says Knowles's skills as a patent attorney helped him and the university secure the best deal possible. Knowles handled



"She's got to be the cleverest patent attorney I've ever met," says one inventor. While in private practice, Knowles prosecuted drug patents that later earned big bucks.

the prosecution of the patents and won a drawn-out interference proceeding against another company that was trying to lay claim to the invention. "She's got to be the cleverest patent attorney I've ever met," Liotta says.

Another former client, top Los Angeles cardiologist and serial entrepreneur Frank Litvack, is also a big fan of

Knowles. Litvack met Knowles when he was CEO at Conor Medsystems Inc., a medical device company based in Menlo Park, California, that is pioneering a new stent design and was bought by Johnson & Johnson early this year for \$1.4 billion. Litvack says Knowles played a prominent role in helping Conor manage five patent suits across three continents. "She's a patent savant," Litvack says. "She has a very creative mind with respect to legal strategies, and she's very tenacious and absolutely fearless."

At first, Litvack conducted business with Knowles on the telephone without meeting her. "When I finally met her, I was expecting a female pro wrestler," Litvack says, but instead "she was like 80 pounds." Knowles, who is petite and wears her blond hair long, looks a picture of feminine daintiness. But, says her former partner Kaufman, "it's a good thing when she's in your corner."

Prior to attending law school, Knowles spent several years at SmithKline Beecham as a pharmaceutical synthetic chemist. She graduated magna cum laude from the University of Georgia School of Law and went on to work for Kilpatrick & Stockton in Atlanta. King & Spalding recruited Knowles in 1997 to start its biotech practice. In late 2005 Glaxo asked her if she'd consider coming on board to replace IP counsel David Roberts, who was retiring after 26 years in the company.

So far it's been quite an adventure. Since September 2006, Knowles, who still lives in Atlanta, has been traveling between Glaxo's offices in Philadelphia and Raleigh-Durham, North Carolina and its headquarters in London. She still finds some free time to watch her son's sporting events and indulge in another favorite hobby: "I have a black belt in shopping," she quips.

Soon she'll be picking up trinkets in Shanghai. Glaxo is expanding its R&D facilities there, —continued on page 48

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continued from page 50— and Knowles's job now includes formulating an IP strategy in a country where intellectual property law is still developing.

She is also playing a key role in Glaxo's effort to fill its pipeline by acquiring companies with promising drugs or patents. In addition, she supervises multiple litigations relating to Glaxo's IP portfolio.

Knowles is convinced, however, that right now stopping the PTO rules permanently is her first priority. "The patent office is under a lot of pressure to solve the backlog problem, but we don't think this is the right solution," Knowles says. "We make our decisions based on current law, and if the law changes such that a research project is truncated, then we have to protect our shareholders' interests." If implemented, the new rules would require com-

If the PTO's regulations are put into effect, Glaxo would have to redraft more than 1,900 pending patent applications. "We have to protect our shareholders' interests," says Knowles.

panies to revise pending applications. In Glaxo's case, that would mean redrafting more than 1,900 pending applications.

In the meantime, major players in the patent community have circled the wagons in support of Glaxo. The American Intellectual Property Law Association and IBM Corp. both filed amicus briefs supporting Glaxo's position in the lawsuit. Knowles also hints at more friend-of-court briefs to come from other companies in the future. "We really appreciate the support from the community because it shows that this issue does not affect only the pharmaceutical industry," Knowles says.

As for those who are personally rooting for Knowles, they are not worried one bit. "Let's just say I can't imagine anyone else who could do a better job," says Liotta of Emory. "If this case is to be won, we have the right person leading the charge." ■