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Dealmaker of the Week: Morton Pierce of Dewey & LeBoeuf

Posted by Julie Friedman

Three months ago Dewey & LeBoeuf M&A chair Morton Pierce was called in to Disney's Burbank offices as talks between the company's executives and Marvel Entertainment heated up. For good reason: There is probably little about longtime client Walt Disney Co. that Pierce doesn't know.

Over the past 15 years, he has helped Disney navigate through a period of explosive growth, negotiating its \$19 billion purchase of Capital Cities/ABC in 1996, its acquisition of InfoSeek Corp. in 1999, its \$5.3 billion purchase of Fox Family Worldwide in 2001, and its acquisition of the Muppets in 2004—not to mention spinoffs of newspapers and other divisions. (His firm took a back seat to Skadden on Disney's \$7.4 billion acquisition of Pixar in 2006, but only because the firm was already helping Disney spin off its ABC Radio division, Pierce says.)

On Sunday night, Disney made another mega deal, buying Marvel Entertainment for \$4 billion, an acquisition that elicited both boos and yeas from the market. Disney claims the addition of 5,000 Marvel characters—including Iron Man and Incredible Hulk—will give it a long-sought lock on teenage male viewers.

The deal posed vast IP challenges for the lawyers; Dewey would tap Weil, Gotshal & Manges for the due diligence, while maintaining its leadership in IP negotiations. Negotiations were also complicated by the tax issues; while large public companies generally want payment in cash, Marvel wanted a deal that would have tax-free status for the stock portion of the deal.

After the companies set a deadline of Aug. 31 for a signed deal, Pierce and his right-hand man, Chang-do Gong, went into overdrive to finish the due diligence in time.

"I don't think Chang slept for four nights straight," he says.

Morton A. Pierce is chairman of Dewey & LeBoeuf's M&A group and Chang-do Gong is a partner, both in the New York office.

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The WALT DISNEY Company



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Pierce was so busy he was forced to charter a plane to accompany his son to college last Friday. While his plane was waiting to take off, he hashed out the cash/stock mix and tax issues in a conference call with his client.

"It was a good thing the line for takeoff at Teterborough was pretty long that day," he says.

Pierce wasn't the only one putting in long days. Marvel's lead counsel, Carl Sanchez at Paul Hastings, says drafts of the agreement were routinely passed back and forth at 4 a.m.

"Both teams were working 20 hours a day for the last nine days," Sanchez says. "Negotiations were serious, and they were thorough."

Under the terms of the contract, which the Deal Professor called favorable to Disney, the company is eligible for a \$140 million break-up fee, a half-percent higher than the average 3 percent break-up penalty. It also got tighter-than-usual terms controlling how Marvel may respond to a potential competing bid.

But several hours after the boards of both companies approved the deal, Pierce's team discovered at 2 a.m. on Sunday that a Marvel executive's signature was missing. Marvel's general counsel was asked to wake up the executive to get his signature, which he did.

"I've done a zillion of these deals," Pierce says. "When a client tells you they want it signed by 6 a.m., we get it done."