

M&A MVP: MoFo's Robert Townsend

By **Chelsea Naso**

Law360, New York (December 1, 2016, 4:38 PM EST) -- Morrison & Foerster LLP global M&A practice co-chair Robert Townsend has built a career steering complex transactions, a feat that landed him a role in two record technology plays unveiled over the last year and earned him a spot among Law360's 2016 merger and acquisition MVPs.

Townsend helmed several complex transactions over the course of the year, including advising VMWare Inc. on the \$67 billion acquisition of its parent company, EMC Corp., by Dell Inc. and other investors and counseling a Broadcom Inc. co-founder in the company's \$37 billion sale to Avago Technologies Ltd.

Both transactions stand out in the technology sector in terms of value, with Dell's EMC buy taking the crown as the largest-ever technology deal announced and Avago's acquisition of Broadcom ranking, at least for a few months, as the largest-ever semiconductor tie-up on record. But both also came with individual complexities.

In the now-closed Dell-EMC transaction, Dell, alongside Dell founder, Chairman and CEO Michael Dell, MSD Partners LP and Silver Lake Partners, said in October 2015 it would snap up EMC for in a cash-and-stock deal that valued EMC's stock at roughly \$33.15 per share.

The stock consideration is where the complexity came in. Dell planned to swap each EMC share for \$24.05 in cash and 0.111 shares of a new tracking stock tied to VMWare, a cloud and business infrastructure company acquired in 2004 by EMC, which floated a partial stake in VMWare on the New York Stock Exchange in 2007.

Townsend and the rest of the MoFo team was tasked with making sure that the tracking stock would not negatively affect VMWare or its publicly traded stock.

"Tracking stock is fairly uncommon and has not been a very popular currency in past M&A transactions," he said. "Our job was to come in on short notice because VMWare found out late in the process that the

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transaction was happening and determine the impact of the tracking stock and deal terms on VMWare and its shareholders.”

In the Broadcom-Avago transaction, Townsend was tasked with advising Broadcom cofounder Henry T. Nicholas, whose ownership of high-vote class B common stock, which gave him 10 votes per share, effectively gave him veto power over the deal.

Townsend said he helped negotiate a transaction favorable to Broadcom and Avago that allowed certain shareholders to retain an interest in the combined company and secured Nicholas’ favorable vote on the deal.

“We had long and extensive discussions the form of equity consideration to be issued in the transaction, and we ended up with several alternatives that allowed long-term holders to stay post-closing and get a more tax efficient treatment if they chose to do so,” Townsend said. “We also discussed other complexities in the deal terms in exchange for Dr. Nicholas committing to vote in favor of the transaction.”

Townsend also led the independent members of the board of directors of videoconferencing company Polycom as it entertained a \$1.6 billion cash-and-stock merger with Canadian telecommunications company Mitel Networks Corp., a deal that was later trumped by a \$2 billion all-cash offer by private equity firm Siris Capital Group LLC.

“We had a topping bid, an all cash bid, come in from Siris that ended up outbidding the strategic bid from Mytel, which is the opposite of what you normally see,” he said.

The impressive year of deal-making also saw the MoFo partner advise McKesson in its simultaneous acquisitions of oncology companies Vantage Oncology LLC and Biologics Inc., together valued at \$1.2 billion. Townsend also steered Infineon in its cross-border \$850 million acquisition of Cree Inc.’s Wolfspeed power and radiofrequency division, stood by Raine Group LLC in its role in Caesar’s Interactive Entertainment Inc.’s \$4.4 billion sale of its social and mobile game business Playtika to a Chinese consortium and led French fashion brand Chanel SA on its acquisition of St. Supery Estate & Vineyards for an undisclosed amount.

Townsend joined MoFo more than 30 years ago, when the corporate practice was a bit more generalized. He got a taste of everything from syndicated international lending work, venture capital investment and intellectual property to initial public offerings and M&A.

It was the M&A that stuck with him, he said, as each deal presented a new obstacle.

“I love the fact that no two M&A are the same and each has its own unique complexities and challenges, including understanding the motivations and aspirations of the parties and finding a structure that achieves their goals, complies with applicable law and withstands scrutiny from regulators,” Townsend said.

His love for deal-making also stems from its cross-border nature. He picked up an appreciation for world travel as a college student, when he studied abroad at the University of Nairobi in Kenya and worked with a public interest law firm in Johannesburg, South Africa, during apartheid. His travels also brought him throughout the Middle East and Europe.

From then on, he wanted to make sure he worked in a job that allowed him to continue to see the world. His role as an M&A attorney at MoFo has not only led to global travel but also let him practice in Japan for several years.

“I’ve always had a cross-border bent to my career,” Townsend said. “I spent a great deal of my time living and working outside of the U.S. I thought M&A would be a legal career that allowed me to do international work as well.”

Townsend’s international nature and readiness to tackle complex transactions does make him stand out, but those traits are rounded out by his ability to understand the business thinking behind each play to ensure he is always acting in the best interest of the client, said Eric McCrath, a MoFo partner who co-chairs the firm’s M&A and private equity investment and buyouts group.

“Rob is both a very pragmatic and creative lawyer focused on the fulfillment of the overall business objectives of the client,” he said. “It isn’t about winning points, it’s about how do we get this deal done in the best interests of the client and the overall transaction.”

He is also known for taking the time to mold up-and-coming attorneys in the firm, McCrath said.

“Rob has been a great mentor figure to me and others at MoFo,” he said. “He is someone that opens doors for junior partners and senior associates working with him. He provides them with access and introductions to clients and key roles in deals while always providing support and serving as a backstop.”

--Editing by Brian Baresch.