Business Better (Season 3, Episode 14): Accelerating Life Sciences: How Accelerators and Education Are Joining Forces to Catapult the Life Sciences Industry

Speakers: Scott Marty and Bill Rhodes

Steve Burkhart:
Welcome to Business Better, a podcast designed to help businesses navigate the new normal. I'm your host, Steve Burkhart. After a long career at global consumer products company BIC – where I served as Vice President of Administration, General Counsel, and Secretary – I'm now Special Counsel in the Litigation Department at Ballard Spahr, a law firm with clients across industries and throughout the country.
In today's episode, leaders of Ballard's Life Sciences Industry and Education Industry Teams consider the ongoing trends that they are seeing in both the education industry and the life sciences industry. We discuss sponsored research and development, underutilized assets, incubators and accelerators and much more. Participating in this discussion are Scott Marty, Co-Leader of Ballard's Life Sciences Industry Team and Leader of the Patent Group's biotechnology team; and Bill Rhodes, Leader of the firm's Education Industry Team. So now, let's turn the episode over to Scott.

Scott Marty:

Welcome back everyone. This is Scott Marty from Ballard Spahr, continuing an ongoing podcast that we started actually back in 2021, going on into 2022, where I had the opportunity to visit with and speak with different leaders striving to grow economic development in their areas or regions of interest. And as you may recall, we spoke to folks all the way across the US from the East Coast to West Coast in different roles and different positions, just to give us various perspectives of what was going on generally with economic impact. We discussed new initiatives, new models and interests and investments in technology parks, incubators and accelerators, as well as other creative economic development platforms being implemented throughout the country within public and private institutions and initiatives. What occurred to me at the end of those opportunities that I had to speak with leaders across our country in these fields was I was given the opportunity to start co-leading Ballard Spahr's Life Sciences Industry Group.

And previously I've been part of what was previously referred to as our Higher Education Industry Group, but now as our Education Industry Group, and have really had the opportunity to spend a lot of time with one of my favorite partners here at Ballard Spahr, Bill Rhodes. Bill runs and heads up our education industry group, and over the last few months, kind of looking backwards, the year behind us and looking at the year in front of us, really started thinking about how life sciences and education and higher ed and research and technologies really started to overlap. So, we really thought it would be a fun opportunity for Bill and I to share a little bit of our thoughts and things that we're seeing going on in our respective industries, realizing that the industries aren't distinct industries, they're oftentimes highly overlapping. So with that intro, I'd like to introduce everyone to Bill Rhodes. Bill, thanks for joining us.

Bill Rhodes:

Thanks, Scott. I'm glad to be here. And as a longtime charter member of the Education Leadership Group, I appreciate that there are a number of areas of overlap here that we can talk about, and I'm excited to do so.

Scott Marty:

One of the things as we were preparing for this podcast and just generally preparing our respective business plans is we started thinking about what are the trends that we're seeing? What are we seeing in our relative industries and what are we doing and what are our clients doing to address those trends? So I thought really at the beginning, at the onset here, I just throw out just

a very open-ended question, which is, as the leader of the education industry group and speaking with the various constituents, both internal here at Ballard Spahr but also external with our clients, what are you seeing out there?

Bill Rhodes:

Well, we're seeing a lot and we've been tracking the trends in the education industry for a number of years. It started pre COVID and of course many of them changed in recent years. But the big issues, the big trends that we've been tracking and trying to inform people at the firm about and speak with clients about include a wide range of topics such as demand and tuition discounting; price transparency; workforce organizing, and any number of different levels of the workforce, including students; Title IX and other Higher Education Act compliance issues; consolidations and closures, including reviewing and discussing with institutions and their financial advisors on the viability of their business models, the amount of leverage they have and the opportunities for consolidation or affiliations, and then of course the antitrust and other regulatory approval processes that would be involved. Some other areas are data privacy, student lending, first amendment issues. Higher education is deeply committed to carbon neutrality. It's an area that we talk to our clients about quite a bit.

And another trending issue is addressing underutilized assets. And that covers a wide range of topics, such as development of underutilized real estate for sponsored research. Sponsored research really provides a number of opportunities for universities to engage with their counsel. We help them look at ways that they can collaborate on some of the things you've talked about already, research parks, innovation districts, incubators, accelerators. Sponsored research can help achieve a number of education objectives that would include enhancing research sponsorship revenue and also increased demand. And that's demand for both high school applicants as well as the opportunities to streamline career development and permanent careers - student internships - by more closely collaborating with the private sector on not only developing maybe underutilized assets, but including curriculum reform. So, we do see sponsored research at some of our larger research universities as an area of high focus these days on ways to not only increase revenue, attract demand, but also improve job placement for the graduates.

Scott Marty:

That's great. And I think really a continuation of some of the conversations I've had over the last few years, finding economically impactful means, both for workforce as well as for technologies, is something that colleges and universities and research institutions have been driving towards for some time. And I want to come back to one of the items, and I think we maybe talked about this doing later in the podcast, but I think it's a good little segue into the incubators and accelerators conversation that we want to have, but the real estate aspect. So, in speaking with some of our partners, it was really interesting to me to see the growth, and I think we talked to Brian Darmody of AURP, the growth of incubators, accelerators generally, but also the repurposing of properties. Is that something that you've seen and how are research institutions and colleges and universities in higher ed dealing with those issues?

Bill Rhodes:

Well, it depends. Many large research universities, particularly in less densely populated areas, have a significant amount of excess real estate. And so, they do offer opportunities to think about how to best deploy the real estate. Is it to increase unrelated business income? Maybe they do a joint venture with a real estate developer on a mixed use project of some sort or more directly mission-related in the sense of we can expand some of the things that we do well already, and that may be sponsored research. If they have existing facilities, they may need to incur capital expenses to reposition existing buildings for a higher and better use, which might include research facilities. If they have bond - tax-exempt bond - financing outstanding on some of these maybe existing facilities, it will require consideration of how we deal with the limitations associated with tax-exempt debt on sponsored research facilities.

Generally, those are somewhat incompatible. And so we have worked with universities to try to free the university of tax-exempt debt restrictions on facilities that are targeted to be used for sponsored research that could be either with taxable refinancings or pay down of the debt. But we have been working with universities on addressing this question about what to do with underutilized assets, including in the research space.

Scott Marty:

Do you see much in the way of the public-private type of partnership where life sciences companies are coming into universities and saying, "Let's do something together." Because we had met with a contingent out in Utah earlier in 2021 about their altitude lab where Recursion Pharmaceuticals and the University of Utah together were building an incubator there on campus with the purposes of having more homes for their technology to live and to grow. Is that something? Is that a trend that you've seen as well?

Bill Rhodes:

Yeah, definitely. And it's not geographically limited in my understanding, our colleagues in the real estate department who are deeply involved in this, have been working with a number of private entities that joint venture, some of which are with our university clients, some of which are with universities and research institutions that are not our clients, but we're seeing almost a relentless drumbeat of joint venturing between education institutions and research institutes with private development companies in the life science space to put together, conceptualize, finance, develop, and operate on a joint venture basis. You can call it a public-private partnership that might be an appropriate reference for a public university, but certainly joint venturing on research parks and innovation districts all over the country in every region. As I said, it does not appear that that process has been slowing, although higher interest rates and things would certainly make it more difficult.

Scott Marty:

In thinking about this, it makes me think about some of the trends we're seeing on the life sciences side. So, in speaking with our clients in reading reports, we see a lot of information that I can share, but also I think where it starts to identify particular trends. So, for 2023, when we were out, we had a contingent out at the JP Morgan conference back in January and kind of listening to people and talking to bankers and venture capitalists and private equity and big pharma and emerging growth companies, one of the big issues, and I think everyone's eyes are on the fact that big pharma has somewhere in the neighborhood of $1.5 trillion (with a "T") of cash on their balance sheets. And there's this ongoing discussion of what people refer to as a "patent cliff." So, a lot of the biggest drugs that are out there, their patents are starting to expire, which is then going to open the doors for generics or biosimilars.

And so the perception I think in large part is that a lot of folks in the pharmaceutical industry, especially big pharma, is looking at maybe a loss of sales due from patent expirations, losses in revenues due to competition, coupled with the fact that probably going all the way back to 2008 when we had the economic recession then, a lot of large pharmaceutical companies and life sciences companies started cutting back on their basic research. And one of the things is you couple all those things together, and so where is that technology going to come from if it's not coming from big pharma? And I think in talking to some of our prior guests, what pharma really wants, and I think what big life sciences really wants, is they want what's (and again, I'll give Ryan Newell who co-leads the life sciences industry group with me, credit for this) "shovel-ready assets."

I don't know if he made it up, but that's where I heard it first. So I'll tribute the credit to him. But really assets that aren't so early, and in talking about incubators and accelerators, I think there's a general perception that that is very early stage technology, something that's just licensed, that's maybe got just a little bit of data. It's not always true. So there's plenty of incubators and accelerators that have more mature companies, but oftentimes those companies aren't quite ready. They're not quite shovel ready, meaning that they don't have phase two clinical trials on therapeutics. It's a little different, I think when we're talking about high-tech, which kind of raises the issue of AI. We see a lot of AI going in right now. I think that the deals that we are seeing, which there aren't very many in life sciences, are more on the high-tech side and AI.

And we could probably do a whole other podcast on AI implications on life in general, certainly in life sciences and intellectual property. But these trends, these buildings of incubators and accelerators, I think, at least in my opinion, in talking to people who are much smarter than me, are really an opportunity to have these early stage companies come in to grow, to have shared experiences with other companies that are in there, to have exposure to law firms, to get guidance there, to get guidance from private equity or mentoring, but also access to equipment that they couldn't otherwise afford. So, it's interesting to see, because, going back to your comment that these partnerships, if you will, between big pharma and universities, it seems to make sense. I mean, it's like their own garden where they're kind of growing technologies with the hopes that some of them will sprout grow and become more shovel ready assets in the future.

So, that's something that we're watching a lot, we get involved very early. We have an amazing emerging growth program where our BASE program allows us to work with student-run organizations. We're working with other small companies through just our normal emerging growth venture capital groups, and we see it every day and helping them foster that tech. And when you couple that with the fact that going back, I think the last big report I saw was maybe from back in 2018, maybe a little past that, was you look at the number of, not technologies, but issued patents. So, if you take every technology that comes out of a university, it doesn't turn into an issued patent, but about 64% are never licensed at all. They never even make it into a company. So, what you're talking about hopefully is the best of the best technologies is getting into these companies.

But even then the ROI on those kinds of investments is becoming more and more difficult, where I think that the angels, the venture capitals on pharma, it's not so much private equity. We see more private equity, I think on the tech side, especially in healthcare, and everyone can go out and read their local blog. And I think hot topics in life sciences always starts with artificial intelligence, but that's the dish of the day. But big data analytics is a big thing. Digital marketing, M&A is slow. I've given a lot of thought of how does the creation and running of incubators and accelerators ultimately help M&A transactions? And my answer typically is, well, it helps young companies get to where they're more shovel ready, where they're more attractive, where they can get their technology to a certain point where someone's willing to value them higher.

I think right now when you've got big pharma with the big checkbook with tons of dollars, they're going to be in the driver's seat. I'm not sure what that does to the valuation of companies. We definitely saw a trend last year where valuations were incredibly high, and now we're seeing where even we're having these large mergers or potential mergers, we're now seeing the FTC and DOJ becoming more and more interested in the antitrust. They blocked the Amgen Horizon deal. They just blocked two airlines. That's, again, not life sciences, but I think it starts to show us a trend of concern that the government's telling us, whether it be antitrust issues or other issues, that they're going to be a bit more on top of the issues going forward.

Bill Rhodes:

Yeah, look, here in Philadelphia where I'm based, we see some of these things that you're talking about from a number of different angles. Obviously, this is one of the larger big pharma hubs in the country, and we've certainly seen the news reports of many of them mothballing big R&D facilities, where they largely were bearing the cost on their own. At the same time, we've seen some spectacular successes of technology and life science breakthroughs that have been done at some of the larger health systems around here, where they've been able to spin off very successfully new research into for-profit companies that have attracted some incredibly successful rounds of VC funding and PE funding are already becoming mature companies in this space. And the more nimble, the more innovative higher education leaders see these trends too. They get the calls from big pharma about potential partnerships and collaborative research.

They see the headlines about these successful spinoffs, and they are willing to think critically about curriculum changes, investments, as well as taking a hard look at their own internal guidelines, policies and procedures for monetizing future research.

I think the incubator is such a great term because it does suggest that there's a long lead time between what you might do now to set the table for a successful monetization of your research in the future. And many of our clients who are waking up and taking notice and wanting to be innovative are taking a very broad look, including maybe taking a step back in some of their own policies and procedures for trying to monetize research and saying, "How do we set the table now - in this sort of new era of more robust collaboration and partnerships - to be in the best position to realize the economic benefits of the research that maybe we're just starting now?"

Scott Marty:

That's interesting. Having the opportunity to represent a lot of tech transfer offices across the US, students have historically been kind of an underrepresented group when they're focusing on commercialization efforts, they're typically looking at faculty. But I've seen, I think what you've explained as well, which is kind of an investment in a younger generation, and what does that look like and how does it work? I've seen more and more programs coming out of universities where they're encouraging students to think more entrepreneurly. They're putting together packages. And in fact, I've seen certain incubators and accelerators that are affiliated with higher ed institutions providing grounds for them to come in and get educated. Right?

Very similar to I think what our base program has done for years and years, which is giving student led companies, legal services, and education to teach them how to run a company.

Because coming up with a technology is probably, in large part, some would say the hardest part, but some would say it's the easiest part because when you're just focusing on doing the job, that's nice. But when you're starting to think about, "How do I incorporate my company? How do I raise money? How do I deal with employees?" The BASE program has been a wonderful program here where we're educating those students. But it is interesting to hear that from more of an administrative position of how do we encourage them, how do we educate them, how do we build classes, and then if that technology comes out of it, how do we deal with that? Because a lot of higher ed - and colleges and universities included - have policies that oftentimes allow undergraduate students to own the intellectual property. Now, they can avail themselves, that's not true everywhere, but that's certainly true in some places, where they can avail themselves to the tech commercialization office should they deem to opt in.

And I find that to be very, very, very successful where students are taking advantage of the colleges and universities, and they're in large part financed because they have money, and oftentimes young students don't have that to do what they need to do, but also to help counsel them, find mentors for them, encourage them finding homes within their incubators and accelerators to grow their technology. I guess, as you and I both know, it raises other issues around student run innovations, but I think that the incubators, accelerators that I've seen are pretty agnostic as to who's coming in. They want good companies, they want good minds and good technologies to come in to grow things. So, anything else from the higher ed side that you're seeing involved in economic impact in their relative areas, things that they're looking at? I think we've covered a lot of trends. It's been exciting to talk about, but certainly want to throw it back to you at least one more time to see if there's anything else that we haven't touched on in this field?

Bill Rhodes:

Well, I would say education leaders have some duties to their students, and as you point out, a well-run student-centric research program can be part of meeting that goal or that duty to their students. Yes, there may be some inherent tension perhaps between the rights of the university and the rights of students. And not every university is in a situation where they would have the same approach on supporting student-led research as another university. But whether it's a faculty-led or a sponsored research or a student-led research, there are so many ways in which the students and the university can mutually support each other and mutually benefit from these, particularly those universities that are committed to the STEM area or even the STEAM area, I do think this is an area where universities can do more. There's more opportunities for them there.

We can help them in any number of ways from developing revamped policies and procedures to negotiating joint venture agreements, advising on real estate development and construction, tax-exempt bond finance, and questions. We see it coming in so many angles, but fundamentally, I think it's a win-win for students and for the universities or the research institutes. We do expect this to continue for a while. So, I'm excited to work with you, Scott, on keeping track of it. And if we want to do another one of these soon, I think AI sounds like a great one. If we had been developing our trending issues in the last two weeks rather than in December, January and February, artificial intelligence probably would've been maybe a higher one. It certainly has during the spring semester, become such a big topic in education, good and bad, that there'll be a lot more on this. And on the technology side of research, I can see this becoming front and center.

Scott Marty:

I agree. I agree wholeheartedly, and it's fun working with you in this as well. And I think this is probably one of at least two, if not more, where we can talk about these crossovers because it's a hot area. There's a desperate need for homes, for technologies. There is a high interest in commercializing technologies coming out of education, and as I said before, with trillions of dollars to spend, there's money out there looking for those opportunities. So, I commend all those higher education and research institutions for their efforts in building buildings, quite frankly, and establishing homes for these companies, because I think that we'll see more and more technologies coming out of those incubators and accelerators, the days of the garage inventor, I'm sure are still out there, folks still working there, but at least in the life sciences, that's a little bit harder to do for lots of reasons out of your home, not to mention combustibility of certain things.

So Bill, thanks so much for talking with me and working on these things together. And for those listening, thank you for listening. Really appreciate the opportunity to speak to folks generally, and if you have any questions, you can always feel free to reach out to Bill or myself or anyone else here in Ballard, in the Education Industry Group or Life Sciences Industry Group. We're here to help, here to learn. Thanks so much for your time.

Steve Burkhart

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