

**THIS MONTH'S MEETING**

**TUESDAY,  
MAY 12, 2009**

**WPI, WORCESTER**  
Campus Center Odeum

**NETWORKING: 5:30 – 6:30 P.M.**

**MEETING: 6:30 – 8:30 P.M.**

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The WPI Venture Forum is a  
program of the Collaborative for  
Entrepreneurship & Innovation



## Entrepreneurial War Stories and Lessons Learned

Plans change. How management recognizes the need for change and how it executes that change can mark the difference between an enterprise's success and failure. While not often discussed publicly outside company board rooms, even the most comprehensive business plans must evolve over time. Sometimes change is a response to unforeseen outside forces. Or, a business plan's basic assumptions may be faulty. Execution may not go as planned due to weakness in personnel or changes in market forces.

Come to the May 12 WPI Venture Forum when three speakers will open the board room doors and offer insights on how they managed a change in plans and how successful they were...or weren't. Learn from the battle-scarred lessons shared by Duffy DuFresne of IsChemix, Mark Pover of VirginHealthMiles and John Robotham of UpToDate.

### BioPharma and Medical Device CEO: Duffy DuFresne

Duffy DuFresne has almost 30 years of experience in the biopharmaceutical and medical device industries. He is currently Chief Executive Officer of IsChemix, a privately-held clinical phase



**DUFFY DUFRESNE**



**MARK POVER**



**JOHN ROBOTHAM**

company in Maynard, Massachusetts that is developing drugs to reduce cell and organ damage associated with ischemia-reperfusion injury that can occur during bypass surgery.

Most recently, he was the President & CEO of Pacgen Biopharmaceuticals, a Vancouver-based public biotech firm. He previously served as President and CEO of Zelos Therapeutics and of ConjuChem, Inc., President and COO at Anika Therapeutics, and Senior Vice President of Business Development at Alpha Beta Technology. DuFresne's pharmaceutical industry experience also includes general management positions. Duffy received his MBA from the Harvard Business School.

### Technology CFO: Mark Pover

A licensed Certified Public Accountant, Mark Pover is Chief Financial Officer for VirginHealthMiles of Framingham, part of the

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## A LETTER FROM THE CHAIR

# Wanted: Nerves of Steel



Mitchell Sanders

We all have learned some very powerful lessons from the volatile financial markets over the past year. The economics of starting and sustaining a business has led to new ground rules for engagement. Cash preservation and management have become the most critical factors to keep your company alive and moving. Partnerships have taken on a different tone in this risk-averse environment, and M&A activity has been much reduced. Many companies that thought they were on the path to liquidity have taken a breather, but once the private equity markets get a second wind, they are ready to sprint to the finish line.

This actually is a perfect time to foster relationships with large companies, but the terms have to be more creative because cash reserves are reduced even for the Fortune 250. The best plan is to pace yourself for a successful exit within a two- to five-year time

frame and implement a strategy to take you on the path to liquidity. That means fostering long-term partnerships, building a customer base and establishing a marquee brand for your products.

Those who are faint of heart should not start a business in this turbulent economy. Nerves of steel and a true passion for entrepreneurship are required to take that leap of faith. As even the slightest error in judgment can be catastrophic for a company, it is best to get prudent advice from the seasoned entrepreneurs at the WPI Venture Forum. Endurance in the marathon of business is just as important as taking decisive actions to drive growth opportunities. The tortoise taught us that slow and steady wins the race, but entrepreneurs have the temperament of a rabbit and often run so fleet of foot that they miss opportunities and make poor decisions.

Please join us on May 12th for another fireside chat with sage business experts offering a CEO, CFO and CSO perspective on some of those missed opportunities. Learn from their "entrepreneurial war stories," so you can grow your business and sustain a profitable enterprise.

Yours very truly,  
Mitchell Sanders'88, PhD'92  
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# Contentious Changes to US Patent Law Looming

by  
HOWARD J. SUSSER

Recently, in *In re Bilski*, the nation's exclusive patent Appellate Court struck down a patent on a computerized method for using weather data to predict commodities prices and energy costs as beyond the proper scope of patent protection — a decision now on appeal to the U.S. Supreme Court. If the decision is left untouched, a process, to be patentable, must be tied to a particular machine or apparatus, or transform a particular article into a different state or thing. Inventions that, if patented, could pre-empt other's using a so-called "fundamental principle" (such as an abstract idea, natural law or mental process) would be unprotectable — even if the discovery of that law or process was a significant advance. In *Bilski*, the Court held that the sought patent would have impermissibly pre-empted all applications of the fundamental concept of hedging in the area of consumable commodities.

United States patent protection for business methods, biotechnology information, medical diagnostic tests, and software is now under a cloud, as the extent to which this holding will foreclose or limit patents in these areas is unclear.

For example, one company seeking reversal of the law is active in stem cell research and works on predictive tests based on an individual's own unique genetic make-up to produce selective medication protocols. Another is a group of Fortune 500 innovators of computerized business process outsourcing and management. Each question whether heretofore patentable methods may now be judged too reliant on "fundamental principles" to be protectable. On the other hand, proponents of the *Bilski* standard include banks, insurers and other financial companies bedeviled by the proliferation of business method patents, joined by health

care advocates hoping to create earlier competition in pharmaceuticals and biologics.

The Supreme Court has taken up a surprisingly large number of patent cases in recent years, modernizing a perceived ailing patent system in ways that Congress has failed to do. These cases include *KSR v. Teleflex* (making it easier to combine prior art to reject or invalidate patent claims as obvious); *eBay v. MercExchange* (severely limiting the ability of non-practicing patent owners to gain an injunction against the losing infringer, leading to a compulsory license in many cases); *MedImmune v. Genentech* (allowing patent licensees to challenge the validity of the patent even while enjoying the protection of the license); and *Quanta v. LG Electronics* (finding that a patent owner exhausts his patent rights by licensing a component manufacturer, thereby limiting his ability to collect royalties at

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different stages of production).

Congressional efforts to update the patent laws to coincide with the nation's dramatic technology growth have stalled despite several bills in the last few years, unsurprisingly due to large well-financed groups on both sides of issues, including fundamentally whether the power of patents should be expanded or diminished. Strong patents are the lifeblood of life science innovators and they do not want the goal of their R&D (a patent monopoly on a high margin drug/device) devalued in the least. Giant high tech

CONTINUED ON PAGE 7

## SPINNING AROUND LOOKING FOR OFFICE SPACE?

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# A LOOK AT THE APRIL 2009 MEETING

## *Transitions, Exits,*

by

**PAUL DANIS**

*Eastwoods Consulting*

Companies looking to partner, sell or reinvigorate their organizations through an exit strategy still have opportunities in this down market, said keynote speaker Bruce MacRae'84 of Hastings Equity Partners at the April 14 WPI Venture Forum meeting. Though they face a buyer's market and valuations are down significantly, good companies can still find a buyer or partner. Companies that operate in stable markets, with many customers and good recurring revenue with high gross margins are better positioned for sales.

Should entrepreneurs sell their company now or wait for the situation to improve? MacRae outlined several options:

- Do not sell now if you can afford to wait. Take the risk that conditions will improve in the not-too-distant future.
- Consider a middle ground — recapitalize part of the company and generate cash to fund operations. Find an investment partner

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*Keynote presenter Bruce MacRae'84 shared his perspective on exit planning*

that can help build market share and add additional horsepower to management. He advised business owners to think like an investor and not an owner. Their company is an asset and not an offspring.

In closing, he offered some sage advice, based on his experience of examining approximately 10,000 companies:

- Be prepared before deciding to sell. You should start the process about two years before you would like to exit.
- Be realistic about valuations today. You need to consider performance in 2009-2010, not the past two years.
- Understand the deal structure, as even experienced advisors can make incorrect assumptions.
- Pick your investment partner wisely since they are more than just a source of funds.
  - Think about value today as well as value in the future
  - Conduct due diligence on them, as they will on you. Have a thorough understanding of what they bring to the table besides cash.
- Be patient, as the process can be lengthy. Though you want to sell fast, they want to buy slow.



*Audience members absorbed speakers' valuable advice*

## ***Case Presentations:***

### **TUI Student Travel**

In a twist from typical practice, co-moderators Sherry Handel of Guard Support Massachusetts and Kevin O'Brien of Peak Financial Services, Inc. then introduced a case presentation double header: two businesses offered their perspectives on exiting and some of the lessons they learned.

Mario Ricciardelli, President & CEO of TUI Student Travel developed his company from a 1987 Babson dorm room startup into the leading company in North America for student travel. Through a fascinating tale of mergers and de-mergers, he grew the company to over \$22 million in sales and \$2 million in operating income in 2004 before selling it for \$44 million. Though ultimately successful, he learned several important things along the way that he shared with the audience:

- Good business advisors are very important. He had several missteps that could have been avoided if he had good advisors in place.
- Focus on the core business and make that successful. Together with his advisory board, he refined his strategy.

# and the Future



*Case presenter Blair Heavey discussed experiences with Be Free and My Perfect Gig*

- Successful exit preparation requires a good deal of planning. Use your advisors and plan well ahead. As he said, “I learned more about my business through the sale process than I ever did running it.”
- Know what your number is to sell the business, and be sure you have a plan for what to do after the sale. Will you stay or go?

## **My Perfect Gig**

Blair Heavey, President and CEO of My Perfect Gig, shared lessons from his previous company, Be Free, an affiliate marketing infrastructure company. Be Free was founded in 1998 and quickly grew to more than 350 customers in one year. A strong team that could move very fast was the key driver of this success, he said. The company undertook an IPO in 1999 and a secondary offering in 2000 to provide an infusion for growth. However, they were hampered by the downturn in 2001 and lost half of their customers. They merged with Value Click in 2002 and had revenue of \$150 million in 2003 with a 20 percent operating profit.

Heavey has since formed My Perfect Gig, an online recruiting site for engineers that facilitates the process for both candidates and



*Co-moderators Kevin O'Brien and Sherry Handel*

employers. Key strategic approaches included bringing in “scary” smart people that are absolute experts in their domains, establishing relationships with partners that provide the candidate pools, owning a strong patented technology, and finding good financial backers. Their expectations are for a third round of funding next year and a possible exit in 2011.

A panel of experts offered comments and questions. Panelists were MacRae, Michael Oleksak, CMC, Co-founder of Trek Consulting, and Shannon Zollo, Esq., of Morse, Barnes-Brown & Pendleton, who moderated the discussion. Several insights they shared were:

- Owners must realize they must give up something to get something as they often overvalue the enterprise.
- Think three to five years ahead in order to get the team ready, have the books in order, diversify the customer base and prepare for the exit.
- Though deals are harder these days due to a pervasive risk-averse environment, it is important to continue to grow the company and be ruthless with cash.
- There may be alternative opportunities besides an outright sale such as management



*Networking after the Spotlight on Entrepreneurs*

buyouts, employee stock ownership, and gifting to the next generation.

Audience questions were varied and included:

- What areas are most easily fixed after purchasing a distressed company? The panel suggested improving purchasing processes and sales and marketing, as well as simply increasing prices.
- When do you give up? Ricciardelli felt that owners had to experience at least one or two disasters to provide the resilience necessary for a startup to succeed. Ultimately, he said, it is best to “never give up.”

A final question prompted a discussion on getting quality people on the company's team. The panelists agreed that it is easy to create a lot of additional value just by bringing in top-notch players. It's important to have people with the right mindset and reward them appropriately.

*Paul Danis, PhD is the Founder and Principal of Eastwoods Consulting, a life science advisory firm that helps companies grow through the commercialization of new technology. By focusing on the most valuable opportunities, efficiency is increased, and profits grow. He can be reached at 508.869.2303 or paul.danis@eastwoodsconsulting.com. ✓*

# Deciding Your Company's Future

CONTINUED FROM PAGE 1

world-renowned Virgin Group. Their flagship product, HealthMiles, is a new health rewards program offered by insurers, employers and other network partners such as health clubs, in an effort to motivate Americans to live more active lives, and ultimately lower health care costs for everyone.

Pover previously was the Chief Operating and Financial Officer of the Utix Group, Inc., a publicly traded, technology-based company servicing the incentive and marketing industry. As Chief Financial

Officer of Turbine Entertainment Software, he secured licenses to develop the online multiplayer games for Lord of the Rings and for Dungeons and Dragons, among other successes. Pover also co-founded and served as Chief Operating and Financial Officer of EON Reality, Inc., a virtual reality technology company, was Chief Financial Officer for Prosolvia AB and has held a number of other positions. He earned an MS degree from Walsh College and a BS degree from the University of Michigan.

## New Product Development Entrepreneur: John Robotham

A serial software technology entrepreneur with start-up CEO and CTO experience, John Robotham is Director of New Products with UpToDate in Waltham, and is responsible for new product development, focusing on clinical decision support for Electronic Medical Records (EMR) and Computerized Physician Order Entry (CPOE) systems. UpToDate provides an on-line, peer-reviewed clinical reference guide for hospitals and individual physicians. The content is used by over 360,000 clinicians in 147 countries and most academic medical centers in the US.

His work in technology strategy and new product development has included clinical laboratory instruments, engineering workstations and wireless Web software. His



## 2009 CALENDAR OF EVENTS

### Monthly Programs (Second Tuesday)

*WPI Campus Center Odeum*  
5:30-8:30 pm

**MAY 12** Entrepreneurial War Stories and Lessons Learned

**JUNE 9** Five-Minute Elevator Pitch Contest

### Radio Programs (Saturdays)

*WTAG 580 AM/94.9 FM and  
streamed live 5-7 pm*  
Call in live to 508.755.0058

### Networking Events

**MAY 20** Nypro, Clinton, 6-8 p.m.

### Workshops (for details see box on page 7)

*WPI Campus Center, Hagglund Room*

**MAY 12** So You Want to Be a Consultant?  
4:30-5:30 p.m.

**MAY 27** Transition Planning: Surviving  
When Life Takes a Left  
9:30-10:30 a.m.

## \$3,000 PRIZE - APRIL 30 DEADLINE Step up to the Plate for a Pitch and a Swing at the 3rd Annual WPI Venture Forum Five-Minute Pitch Contest

Applications are now being accepted from entrepreneurs starting, running or operating early-stage technology ventures in New England. Applicants will be judged by a committee. At least 10 will be selected to compete for prizes at the Five-Minute Pitch Contest held at the June 9th program. Enter at [www.wpiventureforum.org](http://www.wpiventureforum.org).

### THE DEADLINE FOR ENTRIES IS APRIL 30.

Got questions? Please call Gina Betti at 508-831-5075.



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technical experience spans the healthcare, wireless, video and image processing industries. Robotham has been with start-ups ZFrame and Synapix and was a technology business unit vice president at Avid Technology, the leading manufacturer of digital video editing systems. He holds an MIT Sloan School MBA and a computer science degree from MIT. ✓

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# Changes to US Patent Law Looming

CONTINUED FROM PAGE 3

companies, on the other hand, bemoan defending against the tsunami of individual or small company inventors who, they claim, wield too much leverage, and whose patents, they further claim, were improvidently granted in the first place. Other legislative battlegrounds pit the interests and leverage of small inventors against large corporations.

Now before Congress is the Patent Reform

Act ("of 2009") that would dramatically overhaul significant aspects of the patent laws. The proposed changes include: (1) eliminating the one-year grace period to file a US application – forcing individual and small firms to endure costly filings much earlier, (2) limiting patent damages based on the perceived contribution of the invention to the art – eliminating leverage that patentees may have where their invention is one small piece of an infringing product, (3) raising the standard for punitive damages awards, (4) expanding rights to challenge issue patents by sending them back to the US Patent Office for re-examination or cancellation, and several other features.

Though an amended form of the Bill was passed by the Senate Judiciary Committee to the Senate floor on April 2, 2009, if past years' Congressional inaction is a predictor of the future, real change may again be left to the courts. In the meantime, patent preparation/prosecution, licensing and enforcement practices, and investment into enterprises relying on patent protection, should be sensitive to these changed and changing standards.

*Howard Susser is a Partner in the Intellectual Property Group at the Boston-based law firm Burns & Levinson LLP and represents clients in the protection of their IP. Howard can be reached at [hsusser@burnslev.com](mailto:hsusser@burnslev.com)* ✓

## Spotlight on Entrepreneurs

### MEDICAL DATA SERVICE

#### John Lai

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The WPI Venture Forum invites entrepreneurs to make a one-minute practice elevator pitch at monthly programs. Content is limited to seeking investors or potential partners, but not customers. Overhead slide allowed and one pitch per season, per business idea. For a helpful template and submission criteria, please visit: [www.wpiventureforum.org/Programs/spotlight.html](http://www.wpiventureforum.org/Programs/spotlight.html)

## WPI VENTURE FORUM WORKSHOPS

Another opportunity for WPI Venture Forum members and guests to learn about a popular topic with no commercials, no interruptions, and no frills.

### So, You Want to Be a Consultant?

**TUESDAY, MAY 12, 4:30-5:30 P.M.**

*WPI Campus Center, Hagglund Room*

**Speakers:** Barb Finer, QuiVivity Marketing Partners; Gail Radcliffe, Radcliffe Consulting Inc.; Shari Worthington, President, Telesian Technology

### Transition Planning: Surviving When Life Takes a Left

**WEDNESDAY, MAY 27, 9:30-10:30 A.M.,**

*WPI Campus Center, Hagglund Room*

**Speakers:** David W. Wright, CFP®, Senior Vice President — Wealth Management, Senior Investment Managing Consultant, Financial Planning Specialist; Richard G. Carriere, CFP®, First Vice President – Wealth Management, Financial Planning Specialist; John C. Ayers, CIMA®, CFP®, Second Vice President – Wealth Management, Financial Planning Specialist; William J. Horn, Financial Advisor, Financial Planning Associate.

Registration fee for each workshop is \$10.00 for members, \$45.00 for non-members.



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