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TAMMY WOOD, right, is among the 15 honorees. **SECTION B**



Retail pendulum

Gains in April sales could be a swing toward stability for North Texas retailers. **P7**

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Mannatech wages legal battle against imitators

BY CHAD ERIC WATT | STAFF WRITER

Nutritional supplement company Mannatech Inc. pulled another competitor's product off the shelf on Tuesday, winning a court injunction in Dallas federal court to halt production of a nutritional powder based on its patented processes.

It's the latest in a string of courthouse wins for Coppell-based Mannatech, which has won nine permanent injunctions that have taken 17 competing products off the market.

LEGAL WRANGLING
A rundown on Mannatech's courthouse cases **P32**

It's a switch for the direct-selling company, which in its adolescence, spent time in court fending off questions from disgruntled shareholders and battling claims with the Texas attorney general that its health claims couldn't be supported.

As Mannatech has matured, it is learning to behave more like a multimillion-dollar corporation rather than a rapidly growing sales organization.

That includes developing a system to train, monitor and rein in zealous sales associates, and mounting a vigorous legal defense of its patented products and processes.

Mannatech has built its business around directly selling a nat-

MANNATECH, P32

Post-paid problems

Wireless companies could be running out of customers

BY JEFF BOUNDS | STAFF WRITER

If you have a wireless phone with a two-year contract, you're part of the problem.

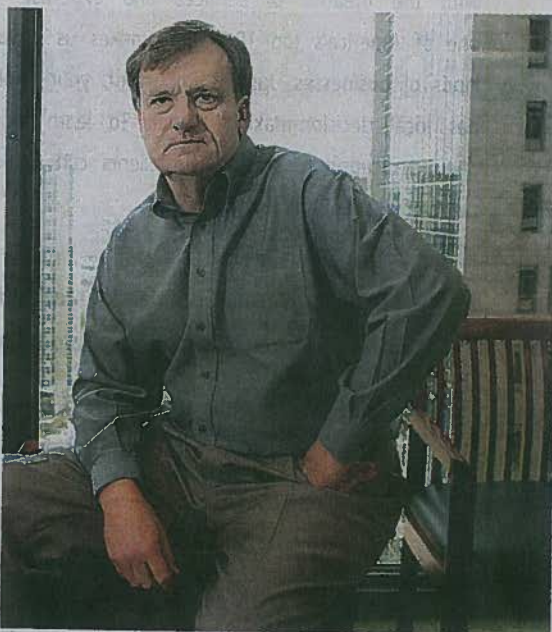
You're part of the problem for companies like AT&T and Verizon, which are having trouble finding new customers like you — called "post-paid subscribers," because you pay for your phone service after you've used it, rather than before.

Though the trend has been going on for a little while, it came into sharper focus when AT&T, the No. 2 wireless carrier, and Verizon, the biggest, reported first-quarter results.

In the first three months of 2010, Dallas-based AT&T had 512,000 net contract customer additions. That was down 42 percent from the year-earlier period. Verizon, meanwhile, had a net

WIRELESS, P32

'Hub' getting filled



TURNAROUND: Richard Allen, CEO of The Allen Group, says a turnaround in the market is helping his company get through the reorganization

The Allen Group has big leases in the works, may take on partner

BY BILL HETHCOCK | STAFF WRITER

The Allen Group may finally be seeing some action at its logistics hub in southern Dallas County. The developer is on the verge of signing several big leases at its 6,000-acre industrial park, and it expects to emerge from Chapter 11 this fall.

"There's a lot of activity in the market," said Richard Allen, CEO of The Allen Group. "The turnaround is certainly helping our ability to get through the reorganization process."

DLH Master Land Holding LLC and its parent, Allen Capital Partners LLC, entities

ALLEN, P33

TOP NEWS

in North Texas business

Life after the iPhone

What AT&T will need to do to thrive, after it loses its exclusive contract with Apple for the iPhone and iPad. **P3**

RIM delays tablet

Research In Motion has postponed the launch of its wireless tablet. Here's why. **P3**

Money to spend

Capital Southwest Corp. has \$46 million to spend — and it favors Texas companies. **P3**

Biotech boost

Health care reform legislation includes tax credits and grants for biotech and drug companies. **P4**

In the pipeline

Deals between Energy Transfer Equity and Regency Energy Partners may be the first in a natural gas consolidation wave. **P5**

Ben E. Keith expansion

Fort Worth-based beverage distributor is doubling the size of its Austin operations, due to a growth in the demand for specialty brews. **P7**

Hill & Wilkinson HQ move

The construction company, which was just tapped to build Mark Cuban's Wonderview, is moving to Richardson. **P7**

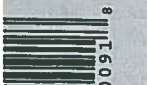
Photo shop

Kimberly Wylie, right, traded a banking job for a career in photography. **P18**



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The List



Back to nature

MANNATECH: Coppel company generated \$289.7 million in 2009 sales

FROM PAGE 1

ural product that the company and its disciples say most people lack in their diets. Patented as Ambrotose, the formula contains a combination of primitive sugars not found in modern processed foods, which holds manifold health benefits, Mannatech says.

Ambrotose is the key ingredient in many of Mannatech's top-selling snack products, and is sold itself in capsules and powders. The products are only available via the company's independent sales associates.

The health claims associated with Ambrotose have helped Mannatech attract a half-million sales associates globally — and \$60 million in sales in the first quarter of 2010 alone. Its success has inspired a growing litter of copycats aiming to cash in, too.

Mannatech has responded with a vigorous fight.

Stopping the mushrooms

In the past three years, the company has gone to court against 14 entities selling products the company views as Ambrotose rip-offs.

"We have people out there building business on our proprietary products — they pop up like mushrooms," said Robert Sinnott, Mannatech's chief science officer and co-CEO. "Because Ambrotose is such an important component to Mannatech, we are going to put the money that it takes to protect (the company) and keep those mushrooms out of our field."

Ambrotose is derived from aloe, tree bark and other natural ingredi-

ents, all of which is detailed in the 45 patents the company has filed for its product. Those very patents provide a road map for imitators.

"To keep people out of a space, you have to explain to them what to stay out of," said Keith Clark, Mannatech's general counsel.

One of the first people to copy Ambrotose and try to sell it began by reading Mannatech's patent, contacting its suppliers and making batches of his own products at home, Sinnott said.

"He was mixing stuff together in barrels in his workshop," Sinnott said.

Since then, Mannatech has seen competitors evolve from homebrew startups to organized companies with their own sales channels. The company has set aside \$1.3 million in the first quarter to cover litigation expenses. That could reap its own return. If Mannatech can prove a competitor willfully infringed on its patents, it could recoup three times actual damages from a guilty copycat/competitor, Clark said. Mannatech hasn't sought that avenue in any of its patent litigation. The most important thing is to get an infringing product off the market, Clark said.

In 2008, Mannatech took a claim against a company called Glycobiotics International Inc. all the way through a jury trial. The jury found that Glycobiotics infringed Mannatech's patent and infringed on its trademark. Mannatech was subsequently awarded \$773,347 in attorney's fees.

"We had a pretty firm line that we were holding, but they wanted to test that theory," Clark said.



ON THE OFFENSIVE: Mannatech general counsel Keith Ward, left, and co-CEO Robert Sinnott have waged a vigorous legal fight against copycat products.

Glycobiotics has no Web site and its last known telephone number is disconnected.

"Low barriers to entry sometimes translate into the need to more aggressively enforce your rights," said Eric Pinker, a Dallas patent attorney at Lynn Tillotson Pinker & Cox who represented Mannatech in the 2008 patent case.

The Gatorade model

Customers aren't as hot for Mannatech products as they once were. Mannatech (Nasdaq: MTEX) saw its net sales drop 14 percent in the first quarter of 2010 to \$60.6 million, down from \$70.7 million. That followed a 13 percent decrease in the full-year 2009 to \$289.7 million from \$332.7 million in 2008.

The company blames the overall economy for the declines.

It also could be dealing with a typical life-cycle of a fad product,

said Steven P. Dennis, president of SageBerry Consulting LLC, a Dallas retail consulting business.

"In the general evolution of brands, a lot of what makes them successful at the first stage of development, makes things difficult for them in the next phase of growth," Dennis said.

Ultimately, Mannatech will only be able to litigate away the most obvious copycats. The larger challenge will come when the business goes up against legitimate competitors.

Dennis, a former marketing executive at Neiman Marcus Group and executive at NutraSweet Co., suggests Mannatech look at Gatorade for a model strategy.

Gatorade differentiated itself by associating its brand with top athletes and athletic performance, Dennis said. That has helped it keep a dominant position among

MANNATECH INC.

YEAR FOUNDED: 1994
HEADQUARTERS: 600 S. Royal Lane, Coppel 75019
2009 SALES: \$289.7 million
EMPLOYEES: 337 (U.S.), 502 (global)
PRODUCTS: Makes and sells nutritional supplements, capsules, powders, lotions and vitamins, via an independent sales force.

sports drinks. "It's the difference between having a product and having a brand," Dennis said.

Zealous sellers

Mannatech's offensive legal moves come about a year after settling complaints brought by Texas Attorney General Greg Abbott that the company was claiming its products could fight cancer and other serious illnesses.

The company paid \$6 million to settle the claims, and its founding CEO Samuel Caster paid a \$1 million penalty and agreed to a five-year hiatus from the company.

Mannatech admitted no wrongdoing as part of the settlement. It had to develop a marketing compliance program for its sales reps, who are paid sales commissions and for signing up additional sales reps.

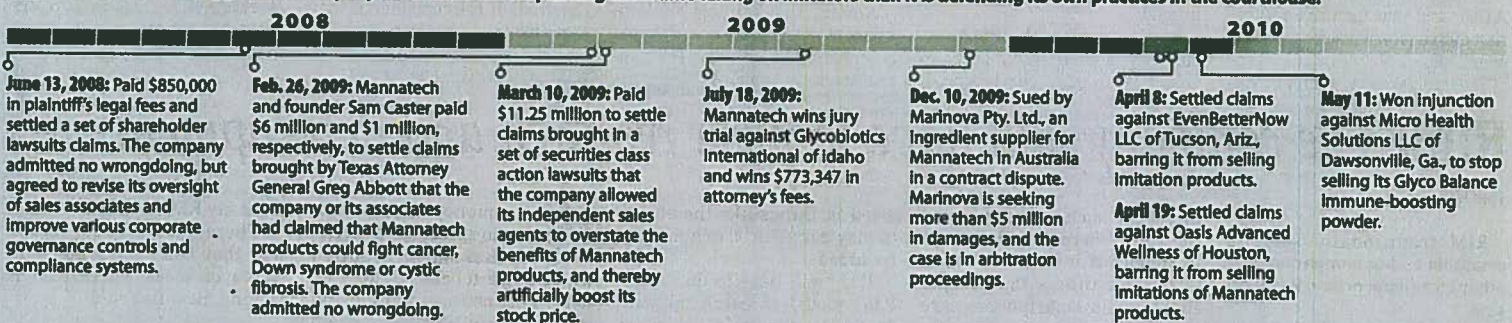
In addition to selling Mannatech wares, its sales reps also help keep tabs on copycats.

"We have 500,000 associates that sell our products — that's a lot of eyes out there," Sinnott said. "It doesn't take very long for them to bring it to our attention."

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LEGAL WRANGLINGS:

Nutritional supplement company Mannatech Inc. is spending more time taking on imitators than it is defending its own practices in the courthouse.



WIRELESS: Verizon: 'We are working with partners across the world

FROM PAGE 1

gain of 423,000 wireless customers under contract, one of the lowest numbers it has posted in roughly a decade. The 423,000 added subscribers represented about 33 percent of what it had achieved in the first quarter of 2009.

"The post-paid market is not healthy," Craig Moffett, senior analyst at Bernstein Research in New York, wrote in a recent note to clients.

anytime soon. The issue for them, as with any company, is finding new avenues of growth. That's becoming apparent as most everyone who wants a cell phone has already purchased one.

"They're running out of new customers," said Barbara Lancaster, president of the Richardson telecom consultancy LTC International.

It's unclear just how many people could ultimately buy cell phones in the United States, so there's no telling just where the saturation point is. While the penetration rate for wireless services

ADD IT UP

Here's a look at the total subscribers for the two biggest wireless carriers in the U.S. Numbers are for the first quarter of 2010.

Total customers



Net contract customers additions



customers having more than one device, according to Lancaster.

Mark Siegel, an Atlanta-based spokesman for AT&T, said the company's post-paid business is "still robustly healthy," but added that "there's no question that the levels of penetration in the U.S. are getting higher and higher."

Siegel added that AT&T still has plenty of ways to grow on the wireless side.

One method is through smartphones, which generate more revenue per user for wireless carriers than conventional wireless phones. In the first quarter of 2010, AT&T added 512,000 net contract customers, compared to Verizon's 423,000.