

THE ACTIVIST REPORT

13D Monitor

Volume 13 Issue 4

April | 2023

Remembering Why We Liked Shareholder Activism to Begin With

In the first quarter of 2023 we have already seen five brand name activists with campaigns at Salesforce, Triam engaging at Disney, Starboard filing 13Ds at Rogers and Ritchie Brothers, Third Point settling for board representation at Bath and Body Works, Impactive settling for board seats at Envestnet, Inclusive with a trio of campaigns in Europe including a board seat at Vistry, ValueAct commencing a proxy fight at Seven & i in Japan and Carl Icahn nominating a slate at Illumina. And this is just some of the activist activity this year. Shareholder activism is back in a big way and poised to flourish.

Shareholder activism is simple in concept but complex in execution. It is a strategy where top value investors identify undervalued companies and actively become

continued on page 2

Under the Threshold

Anika Therapeutics (ANIK): Caligan; Enhabit (EHAB): Cruiser/Harbour Point; FLEETCOR (FLT): DE Shaw; Illumina (ILMN): Carl Icahn; Primo Water (PRMW): Legion; Semtech (SMTC): Lion Point; Cardinal Health (CAH): Elliott; Salesforce (CRM): Elliott



On March 27, 2023, **Caligan Partners** (~4%) nominated two directors, Gary Fischetti and James Hogan, for election to **Anika Therapeutics' (ANIK)** seven-person board. Additionally, Caligan urged the Company to exit their Joint Preservation segment, return capital to shareholders, and consider strategic alternatives, including a full sale of the Company.

continued on page 11

Around the World



Cellnex: TCI Fund; Corbion: Inclusive; OCI: Inclusive; Parkland: Engine Capital; Santos: Snowcap/Market Forces; The Restaurant Group: Oasis; The Restaurant Group: Irenic; Vistry: Inclusive; Canaccord: Crescendo; Dai Nippon: Elliott; De La Rue: Crystal Amber; First Capital REIT: Sandpiper/Artis; Fujitec: Oasis; KT&G: Flashlight; Nano Dimension: Muchinson; RWE: ENKRAFT; Sapporo: 3D Investment; Seven & i: ValueAct; Suncor: Elliott

On March 23, 2023, **TCI Fund Management** (9%) called for the removal of three board members at **Cellnex Telecom**, including the Chairman, citing the Board's mishandling of the search for a new CEO. TCI noted that the Company cannot reach its full potential due to poor corporate governance.



continued on page 13

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10 Questions with Paul Caminiti

Paul Caminiti is a Founding Partner at Reevemark. For 25 years, Paul has been a trusted advisor to boards, management, and high-profile individuals on communications around value-determinative is-



sues. Paul provides media/IR counsel on complex situations including shareholder activism, transactions, litigation, reputational matters, and restructurings. Paul is ranked by Chambers as a top Litigation and Crisis Communications professional (2022), in Lawdragon's Global 100 Leaders (2022, 2021), and as a Top 15 Financial Communications Advisor by Insider. Paul's activism, proxy and transaction experience includes advising: Sanderson Farms (sale to Cargill, Wayne; vs. Durational), Triam (Disney, Unilever, Invesco), Simon Property (Taubman), American Vanguard, Pasithea (vs. Camac Group), Innovate, Aptevo, Gulfport, Brunswick Bank, Cardinal Health, Lilly and Casey's. Paul's recent litigation and restructuring work includes Diamond Sports/Bally Sports, which broadcasts NBA, NHL, MLB teams, on restructuring; NexPoint regarding Highland restructuring, other litigation; and Gold Corp re compliance issues. Prior

continued on page 3

IN THIS Issue

Item	Pg.
Remembering Why We Liked Activism	1
10 Questions with Paul Caminiti	1
Under the Threshold	1
Around the World	1
Monthly Activist Activity	6
One to Watch - ILMN/Carl Icahn	6
Nomination/Standstill Calendar	8
Activist Directory	17

REMEMBERING WHY WE LIKED ACTIVISM (cont'd. from pg. 1)

their own catalyst to close the valuation gap instead of waiting for the market to hopefully recognize this value dislocation. It is a strategy that was facing severe headwinds during the last five years when we experienced a bull market fueled by growth stocks. Activist catalysts lost a lot of their value in a market where index funds were returning high double digits annually, low interest rates were propping up growth stocks and if you did not own FAANG it was difficult to outperform. Those markets have changed drastically and things are very different now. We are now in a stock-pickers market and are seeing a huge resurgence of shareholder activism for the following reasons:

- **More Opportunities for Value Investors.** With the markets having their worst year since 2008 and small, mid and large cap stocks all retreating in 2022, the gap between price and value significantly grew for many stocks leading to many more opportunities for value investors and activists. Activists were seeing stocks on their screens that they never

thought they would see at this low of a price. That is what leads to five of them jumping into a company like Salesforce at the same time.

- **Flat/Down Markets.** When markets are down, it is harder for underperforming management to hide and it is easier to get support from other shareholders. In flat markets where you cannot rely on beta for your returns, the alpha generated by activist catalysts is much more valuable.
- **Higher Interest Rates.** When interest rates are low, management can finance their way out of bad business plans. In a higher interest rate market, there might be less strategic (i.e., M&A) activism but financial (i.e., balance sheet) activism becomes more important and there is a premium on longer-term operational and corporate governance activism.
- **Universal Proxy.** We believe that the universal proxy enacted in September of 2022 is a game

changer in corporate governance activism. It will lead to more director nominations by experienced activists and novice activists, more success in dissidents getting board seats and more settlements. But, most of all, it will lead to more qualified boards as the competing directors' respective qualifications will become more important than the activist's plan in a proxy fight.

Activism has been a strategy that has been around in some form for centuries. In fact, the first activist campaign ever was in the early 17th century at the first public company ever – the Dutch East India Company. But modern-day shareholder activism goes back two or three decades as a strategy that was born and evolved over time to continuously demonstrate understandable and repeatable success. When top activists take a large stake in underperforming companies and actively institute a value creating agenda, they have seen incredible success. The top 10 activists (in terms of 13D outperformance) over their fund history are:

Activist	# of Campaigns	Average Return	S&P500 Avg. Return	Delta
Impactive Capital	7	60.42%	-.27%	60.69%
Sachem Head	8	59.34%	9.52%	49.82%
ValueAct Capital	89	56.91%	17.07%	39.84%
Mantle Ridge	3	42.92%	11.91%	31.01%
Sarissa Capital	13	46.28%	21.20%	25.08%
Engaged Capital	21	44.05%	20.54%	23.51%
Elliott Associates	85	39.13%	18.77%	20.36%
JANA Partners	50	25.76%	9.14%	16.62%
Triam Fund	13	61.75%	45.47%	16.28%
Starboard Value	111	26.95%	11.34%	15.61%
Average	40	46.35%	16.47%	29.88%

continued on page 3

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REMEMBERING WHY WE LIKED ACTIVISM (cont'd. from pg. 2)

Many newer investors are not aware of this, and many veteran investors need to be reminded of it because activist funds have for the most part underperformed the markets over the last five years. But we have left the growth part of the investment cycle and are re-entering the value part. In markets like this, we expect activist funds to more consistently outperform, but their fund performance has never matched their 13D performance as depicted in the chart above. The chart shows how activists do with their activist campaigns, but it would take permanent capital and unlimited time for them to be 100% activist. Accordingly, these results are diluted by everything else they do – shorting, passive investments, macro investments, SPACs, etc. For example, when Bill Ackman used to do activism, he did it better than anyone. And during

that time, in 2013, he said that 55% of Pershing Square's portfolio has been in active investments with the other 45% in cash and passive investments but that the 55% of active investments produces more than 90% of Pershing Square's returns. This is true among all activist funds and we hope we will start seeing activists focus more on activism in 2023 and not be distracted and diluted by other non-core strategies.

It is not a fluke that activism works when done correctly. Good activists are good value investors who do not wait for the market to recognize the value gap. They are their own catalyst to close the valuation gap. If all activists did were help a company trade at its true intrinsic value faster than it would without the activist involvement, expediting that return alone would create alpha. But that is not

all activists do. In most cases, the activist will have a long-term value creating plan to implement as an active shareholder or, more often as a board member. When they take board seats, they will often be among the most prepared directors at board meetings. They do not just read the board materials before the meetings, they deeply work on the company throughout the year. They go back to their offices and get their analysts to create comprehensive financial models as to what the best use of cash is for example, or the best strategic decision and they are bringing that work product to the boardroom to discuss with the rest of the board. And their primary concern is shareholder value – that is how they get paid for their work – by the stock price going up. Moreover, they gladly pay for the costs of the activist campaign, but the benefits accrue to all shareholders.

PAUL CAMINITI (cont'd. from pg. 1)

to co-founding Reevemark, Paul spent 22 years at Sard, where he was an MD. Previously, Paul practiced law and represented clients from the securities, sports and art industries in federal criminal, civil cases. Paul graduated from Princeton University in 1989, majored in History and Captained the Heavyweight Crew. He graduated from Fordham University School of Law in 1992.

13D: What prompted you to found Reevemark? Tell us a little about your practice. What are some examples of your client representation as it relates to shareholder activism?

PC: We saw a gap in the market for an experienced PR/IR boutique able to help clients navigate complex situations from activism and deals to litigation, crises and restructurings. Our Founders are four "reformed" lawyers and an IR expert who are all great friends – in fact Brandy Bergman, Hugh Burns and I met the first

day of Law School. Our senior team enjoys rolling up our sleeves and collaborating with our talented staff to do the work. We believe experience, intellect and passion are all necessary to deliver better outcomes for clients – and I'd put our deep Reevemark team up against any firm.

We've worked for large, constructive investors on major matters, including Trian on Disney, Unilever and Invesco and others that client confidentiality prevents us from naming. The first activist type matter I worked on was in 1997 for Icahn and Elliott against Ron Perelman on Marvel through a Delaware bankruptcy, a complicated, illuminating project with intense media interest. We find our decades of experience working for the most formidable activists, knowing how they approach various company vulnerabilities, differentiates Reevemark and makes us more effective on the defense side, where much of our work is done.

We have significant experience with big cap financial services, retail, media, energy and pharma/biotech companies, and we've also done a lot in the middle market and small cap space, which we see as underserved.

13D: What are the most strategic ways and means that a company can use to most effectively engage with the media to reach their key stakeholders? How has this evolved over the last 10 years?

PC: The media landscape has evolved dramatically over my 25 years in the business – there are more outlets, more news reported in real time, more ways to communicate (including social media), more reporter turnover. Building and maintaining relationships with journalists and engaging even on sensitive issues is key – and your credibility is paramount. Companies need a partner that will be candid with them, develop and deploy thoughtful, fact-based messag-

continued on page 4

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PAUL CAMINITI (cont'd. from pg. 3)

ing that addresses investor (and media) concerns and anticipates the toughest questions.

13D: Activists engage with fewer than 5% of public companies but seem to get an inordinate amount of media coverage. What do you think of the media's coverage of activism?

PC: Thoughtful question – it's always easier to get media attention for an activist, as going public is inherently newsworthy, especially at launch. Also, activist advisor teams are smaller, can be more dynamic and able to act faster to make the news cycle. But the best PR practitioners have experience on both sides, and defense is often more challenging. On the company side, most journalists will engage and let you tell your story, though we're sometimes told it's not as "appealing to the reader." So clearly and succinctly setting out the company's path forward, with target milestones, is integral.

13D: Once a company is engaged in a proxy fight, there are many ways for a company to succeed, but two of the main ways are either to have a better

plan than the activist or a better relationship with shareholders than the activist. Which is more important?

PC: Both are important. Strong shareholder relationships are not a panacea for underperformance, but it does provide a base and, if there's true engagement, creates a feedback loop to refine a company's go forward plan. But ultimately, the ability to convince the Street of a plan that will drive value, as well as a company's Board makeup, are key to a company's success.

13D: What is the worst thing a company can do after being approached by an activist?

PC: Taking the old school approach of being unwilling to engage or give a fair hearing to an activist's suggestions. Vilifying the activist inside the company/boardroom can create an unhealthy dynamic that can impede successful resolution.

13D: Shareholder activism has become more accepted among institutional investors but seems to still have many critics in C-suites. How is shareholder activ-

ism perceived in board rooms today?

PC: Activism is viewed more constructively than in the past, and most companies have better shareholder engagement programs than before. But there's still an element of "these guys don't get it" and "us vs. them" mentalities at some companies. While a company might rightfully arrive at that position after engaging and fully assessing the situation, it's not in shareholders' best interest to start there.

13D: The SEC has adopted pay versus performance disclosure rules which will be in effect for the current proxy season and will likely attract heightened media attention. How do you anticipate this affecting shareholder activism this year?

PC: It's yet another catalyst and focal point for an activist. It lays data out in plain speak that will more easily show which companies pay executives excessively relative to peers, as well as to the average employee.

13D: How do you view ESG considerations affecting activism? How do you advise companies and activists about

“Building and maintaining relationships with journalists and engaging even on sensitive issues is key – and your credibility is paramount. Companies need a partner that will be candid with them, develop and deploy thoughtful, fact-based messaging that addresses investor (and media) concerns and anticipates the toughest questions.”

continued on page 5

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PAUL CAMINITI (cont'd. from pg. 4)

ESG messaging?

PC: With limited exceptions, it's the "G" that matters, and high quality E and S strategies should be underpinned by robust governance. Boards are under intense scrutiny regarding performance and there's an increasing bias against long tenured and older directors. It's almost ageist. ESG messaging is important, but it can't be the tail that wags the dog in an activist contest. It all comes down to performance and near- and long-term outlook, so a good ESG program should be additive to that. But a great ESG program won't stave off an activist if a company is underperforming.

13D: Activism is a public strategy in that

it is often disclosed in a public 13D filing and it requires persuasion of other shareholders. Yet, PR firms often advise their activist clients to just say no to the media reasoning that the least risky communications option is to stay quiet and avoid publicity. Do you think this is good advice and how do you weigh whether to speak out or stay quiet?

PC: That's certainly not our approach. While smart activists always try private engagement first, they need to be ready to take their campaign public and usually are, as the media is an amazingly strong tool in the toolbox. Activists can speak to investors, analysts and the advisory firms via the media very effectively, and not just at launch; but they should

be thoughtful and strategic about how they do so.

13D: Salesforce has attracted the attention of five brand name activists, the first time in history. When there are multiple activists engaging a company, how can a company respond to one without prompting backlash from others?

PC: We're not going to address Salesforce or Ritchie Bros as we've been involved in both situations. From a company perspective, one always has to be concerned with pile-on activists, which some used to refer to as pilot fish. A company's best ammunition is good performance, governance, shareholder dialogue and the ability to take constructive advice.

“Activism is viewed more constructively than in the past, and most companies have better shareholder engagement programs than before. But there’s still an element of ‘these guys don’t get it’ and ‘us vs. them’ mentalities at some companies.”

SAVE THE DATE

10.17.23

2023 ACTIVE-PASSIVE INVESTOR SUMMIT
THE PIERRE HOTEL, NEW YORK CITY

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New 13D Filings for March

Company Name	Investor	Mkt. Cap.	Filing Date	%	Cost	Item 4 Action
Ritchie Bros Auctioneers (RBA)	Starboard Value	\$6.77B	3/6/23	6.20%	\$75.52	Jeff Smith on the Board
Natural Gas Services (NGS)	Mill Road Capital Mgmt	\$131.45M	3/10/23	7.28%	\$8.94	nominated two directors

New UTT Campaigns for March

Company Name	Investor	Mkt. Cap.	Action Date	%	Cost	Action
Illumina, Inc. (ILMN)	Carl Icahn	\$35.86B	3/13/23	1.39%	n/a	nominating three directors
FLEETCOR Technologies (FLT)	DE Shaw & Co	\$14.68B	3/24/23	n/a	n/a	settled for board seats

Relevant Views & Commentary

Company Name	Investor	Mkt. Cap.	Date	%
Vistry Group PLC	Inclusive Capital Partners	£2.71B	3/23/23	5.9%
OCI NV	Inclusive Capital Partners	€6.45B	3/24/23	5.0%
Corbion NV	Inclusive Capital Partners	€1.78B	3/29/23	10.0%

One to Watch

<i>Company</i>	<i>Investor</i>	<i>Investment</i>
Illumina (ILMN) Market Cap.: \$35.86B Enterprise Value: \$35.31B Cash: \$2.04B Debt: \$1.49B EBITDA: \$748M	Carl Icahn 13F Holdings: \$21.75B # of 13F Positions: 16 Largest Position: \$15.19B Avg. Return on 13Ds: 16.45% Versus S&P500 avg: 33.63%	Date of UTT: 3/13/23 Beneficial Ownership: 1.39% Average Cost: n/a Amount Invested: n/a Highest price paid: n/a # of larger shareholders: n/a

On March 13, 2023, Carl Icahn sent a letter to Illumina, Inc's (ILMN) shareholders announcing his intention to nominate Vincent J. Intrieri, Jesse A. Lynn, and Andrew J. Teno, for election to the Company's Board at the 2023 Annual Meeting. Additionally, Icahn criticized the Company's acquisition of GRAIL Inc, which he believes has led to \$50 billion of value destruction.

Carl Icahn is the grandfather of activist investing and a leading pioneer of modern-day shareholder activism. When most people think of Carl Icahn, Healthcare companies are generally not their first thought. However, Icahn has had extensive activist experience at Healthcare companies. In nine prior concluded activist engagements in the Healthcare industry going back to ImClone Systems in 2006, Icahn has averaged a 66.27% return versus -0.11% for the S&P500. In the situations where he received board representation that average return goes up to 93.90% versus 17.58% for the S&P500.

Illumina develops, manufactures, and markets life science tools and integrated systems for large-scale analysis of genetic variation and function. It operates through Core Illumina and GRAIL. GRAIL, which was acquired in August 2021, is a health-

continued on page 7

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One to Watch (cont'd. from pg. 6)

care company focused on early detection of multiple cancers. GRAIL's Galleri blood test detects various types of cancers before they are symptomatic.

Illumina created GRAIL as a business unit in late 2015 and spun it out in January of 2016. Less than five years later, in September of 2020, Illumina agreed to acquire GRAIL back for \$8 billion. They closed the acquisition a year later despite not getting approvals from the FTC or the European Union and with indications that there would be resistance from one if not both of the regulators. This angered the European Commission, who ultimately blocked the deal and levied the maximum fine. Illumina has appealed the decision and set aside a \$453 million liability reserve for the potential European fine. Since the acquisition closed in August of 2021, Illumina's stock price fell by 57% from \$522.89 to \$225.88, eliminating \$47 billion of shareholder value. To put that into perspective, the entire market cap of Silicon Valley Bank prior to its implosion was less than \$16 billion.

Icahn thinks Illumina is a great company but a quintessential example of what is wrong in corporate America. He takes issue with Illumina spinning off GRAIL cheaply just to overpay for it less than five years later, but that is just the beginning. Reasonable boards overpay for companies all the time, but we know of no other board that has ever consummated an \$8 billion acquisition knowing full well that the regulators were likely going to have a problem with it. Icahn believes this is at least gross negligence and that Illumina directors that approved the acquisition could be personally liable. Icahn would like to see GRAIL divested from Illumina, potentially through a rights offering, and management focus on the core business of Illumina.

So, Icahn does what Icahn does – he takes a position in the Company and nominates to the nine-person board three directors who he believes can come in and right the ship and restore the shareholder value that has been lost. One might expect that a company that has destroyed so much shareholder value in so little time would welcome experienced and fresh eyes to turn things around. But the Company rejected Icahn's nominees because "the board has determined Icahn's nominees lack relevant skills and experience." Icahn's nominees have significant restructuring, corporate governance, M&A, capital markets and legal experience, five things the Company desperately needs. The current board has nine directors, seven of whom have a science and engineering background and two of whom have a financial background. Not one director is an investor and even more incredible is not one of the nine directors has any legal background or experience whatsoever. This board made an unprecedented decision to close an \$8 billion acquisition in the face of resistance from both US and European regulators without having anyone with any legal experience on the board and despite having to know that at the very least this decision was going to embark them on a multi-year legal battle. Moreover, even after this legal battle started, they did not add anyone with legal experience to the board. And now, when Carl Icahn suggests they add to the board Jesse Lynn, general counsel to Icahn Enterprises with 27 years of legal experience, the Board responds that he lacks the relevant skills and experience.

A board that makes mistakes that cost shareholders tremendous value is obviously not a good thing, but it is repairable. What is much worse is a board that cannot even see the problems and the mistakes and thinks they have it under control as shareholder value continues to erode. That is what we have at Illumina. This can be fixed by adding Icahn's three nominees to the board. Not only do they have the legal, capital markets and corporate governance experience to help the board spot the issues, they have the restructuring and M&A experience to help management execute a plan to restore shareholder value. But most of all, they have tremendous skills and experience in the most important thing this board needs that they fail to realize - holding management accountable.

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NOMINATION/STANDSTILL CALENDAR UPDATES

April 2023

■ Nomination Deadline (Window Open)
 ■ Nomination Deadline (Window Closed)
 ■ Standstill Expiration Date
 ■ Universal Proxy Deadline

Sun	Mon	Tue	Wed	Thu	Fri	Sat
26 <div style="background-color: pink; padding: 2px;">Avis Budget Group Inc (CAR); SRS Investment Management, LLC</div> <div style="background-color: lightblue; padding: 2px;">Avis Budget Group Inc (CAR); SRS Investment Management, LLC</div> <div style="background-color: lightblue; padding: 2px;">Northern Oil & Gas, Inc. (NOG); Bahram Akradi</div>	27 <div style="background-color: lightblue; padding: 2px;">Conduent Inc (CNDT); Carl Icahn</div> <div style="background-color: lightblue; padding: 2px;">NiSource Inc (NI); Elliott Associates, LP</div> <div style="background-color: lightblue; padding: 2px;">ON Semiconductor Corp (ON); Starboard Value</div> <div style="background-color: lightblue; padding: 2px;">Pinterest Inc (PINS); Elliott Associates, LP</div> <div style="background-color: lightblue; padding: 2px;">Pinterest Inc (PINS); Elliott Associates, LP</div>	28 <div style="background-color: yellow; padding: 2px;">CalAmp Corp. (CAMP); B. Riley Financial Inc.</div> <div style="background-color: lightblue; padding: 2px;">Lowe's Companies Inc (LOW); DE Shaw & Co, LP; Pershing Square, LLC</div> <div style="background-color: lightblue; padding: 2px;">Phenixfin Corporation (PFX); FrontFour Capital Group</div>	29	30	31	1 <div style="background-color: pink; padding: 2px;">Dollar Tree Inc (DLTR); Mantle Ridge LP</div> <div style="background-color: lightblue; padding: 2px;">SandRidge Energy Inc. (SD); Carl Icahn</div> <div style="background-color: lightblue; padding: 2px;">SandRidge Energy Inc. (SD); Carl Icahn</div>
2 <div style="background-color: pink; padding: 2px;">Ironwood Pharmaceuticals Inc (IRWD); Sarissa Capital Management LP</div>	3 <div style="background-color: yellow; padding: 2px;">GameStop Corp (GME); RC Ventures LLC</div> <div style="background-color: lightblue; padding: 2px;">PayPal Holdings Inc (PYPL); Elliott Associates, LP</div> <div style="background-color: lightblue; padding: 2px;">PayPal Holdings Inc (PYPL); Elliott Associates, LP</div>	4 <div style="background-color: green; padding: 2px;">Seagate Technology PLC (STX); ValueAct Capital</div>	5	6	7	8 <div style="background-color: pink; padding: 2px;">Turtle Beach Corp (HEAR); Toro 18 Holdings LLC</div> <div style="background-color: lightblue; padding: 2px;">Enovis Corp (ENOV); Starboard Value</div> <div style="background-color: lightblue; padding: 2px;">Rogers Corp (ROG); Starboard Value</div>
9 <div style="background-color: green; padding: 2px;">Tesla Motors Inc. (TSLA); SOC Investment Group</div> <div style="background-color: lightblue; padding: 2px;">Onespan Inc (OSPN); Legion Partners Asset Management, LLC</div> <div style="background-color: lightblue; padding: 2px;">Willis Towers Watson PLC (WLTW); Starboard Value ; Elliott Associates, LP</div>	10 <div style="background-color: yellow; padding: 2px;">Harmonic Inc (HLIT); Scopia Capital Management LP</div> <div style="background-color: pink; padding: 2px;">Harmonic Inc (HLIT); Scopia Capital Management LP</div> <div style="background-color: lightblue; padding: 2px;">Cyxtera Technologies, Inc. (CYXT); Starboard Value</div> <div style="background-color: lightblue; padding: 2px;">Enzon Pharmaceuticals Inc. (ENZN); Carl Icahn</div> <div style="background-color: lightblue; padding: 2px;">Salesforce Inc (CRM); Starboard Value ; Elliott Associates, LP; ValueAct Capital; Third Point, LLC</div>	11	12	13	14	15 <div style="background-color: green; padding: 2px;">OPKO Health Inc (OPK); Sian Capital, LLC</div>
16 <div style="background-color: pink; padding: 2px;">Wisdomtree Inc (WT); ETFs Capital Limited</div> <div style="background-color: lightblue; padding: 2px;">IAA Inc (IAA); Ancora Advisors, LLC</div> <div style="background-color: lightblue; padding: 2px;">Vertiv Holdings Co (VRT); Starboard Value</div>	17 <div style="background-color: pink; padding: 2px;">FirstEnergy Corp (FE); Carl Icahn</div> <div style="background-color: pink; padding: 2px;">Monro Inc (MNRO); Ides Capital Management LP</div> <div style="background-color: lightblue; padding: 2px;">Indus Realty Trust Inc (INDT); GAMCO Investors, Inc.</div> <div style="background-color: lightblue; padding: 2px;">Innovate Corp (VATE); MG Capital Management Ltd.</div> <div style="background-color: lightblue; padding: 2px;">Velodyne Lidar Inc (VLDR); David S. Hall</div>	18	19 <div style="background-color: yellow; padding: 2px;">New Relic Inc (NEWR); JANA Partners, LLC</div> <div style="background-color: green; padding: 2px;">New Relic Inc (NEWR); Engaged Capital LLC</div> <div style="background-color: green; padding: 2px;">NextGen Healthcare Inc (NXGN); The Razin Group</div>	20	21 <div style="background-color: yellow; padding: 2px;">LivePerson Inc (LPSN); Starboard Value</div>	22 <div style="background-color: lightblue; padding: 2px;">Activision Blizzard Inc (ATVI); SOC Investment Group</div>

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NOMINATION/STANDSTILL CALENDAR UPDATES

April 2023 cont.

Sun	Mon	Tue	Wed	Thu	Fri	Sat
23 Ascent Industries Co (ACNT); Privet Fund LP	24 Masimo Corporation (MASI); Politan Capital Management LP	25 Canadian National Railway (CNI); TCI Fund Management LTD	26	27 Ingevity Corp (NGVT); Inclusive Capital Partners LP	28 Agilysys Inc (AGYS); MAK Capital One LLC	29
Chicos FAS Inc. (CHS); Barington Capital Group	Chicos FAS Inc. (CHS); Barington Capital Group Rogers Corp (ROG); Starboard Value				Lifecore Biomedical Inc (LFCR); Wynnefield Capital; Legion Partners Asset Management, LLC Amarin Corporation plc (AMRN); Sarissa Capital Management LP	
30	1	2	3	4 Seagate Technology PLC (STX); ValueAct Capital	5	6

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NOMINATION/STANDSTILL CALENDAR UPDATES

May 2023

■ Nomination Deadline (Window Open)
 ■ Nomination Deadline (Window Closed)
 ■ Standstill Expiration Date
 ■ Universal Proxy Deadline

Sun	Mon	Tue	Wed	Thu	Fri	Sat
30	1	2	3	4 Seagate Technology PLC (STX); ValueAct Capital	5	6
7	8	9 Tesla Motors Inc. (TSLA); SOC Investment Group	10	11	12 News Corp (NWSA); Irenic Capital Management Quotient Technology Inc (QUOT); Engaged Capital LLC	13
14	15 OPKO Health Inc (OPK); Sian Capital, LLC	16	17	18	19 New Relic Inc (NEWR); Engaged Capital LLC NextGen Healthcare Inc (NXGN); The Razin Group	20
21	22 FedEx Corp (FDX); DE Shaw & Co, LP FedEx Corp (FDX); DE Shaw & Co, LP	23	24 Procter & Gamble Co (PG); Triam Fund Management, LP	25	26	27
28 Agilysys Inc (AGYS); MAK Capital One LLC	29	30	31	1	2	3 Mercury Systems Inc (MRCY); Starboard Value Mercury Systems Inc (MRCY); JANA Partners, LLC
4	5 Freshpet Inc (FRPT); JANA Partners, LLC	6 Circor International Inc (CIR); GAMCO Investors, Inc.	7	8	9	10

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UNDER THE THRESHOLD

NEW

On March 30, 2023, **Cruiser Capital** and **Harbour Point Capital** (combined 4.7%) entered into an Agreement with **Enhabit, Inc. (EHAB)**, pursuant to which the Company agreed to appoint Stuart McGuigan and Barry Schocht as directors to the Board. Cruiser and Harbour agreed to support the Board's full slate of directors at the Annual Meeting, as well as customary voting and standstill provisions.

FLEETCOR On March 15, 2023, **DE Shaw Group** and **FLEETCOR Technologies Inc. (FLT)** entered into an Agreement pursuant to which the Company agreed to appoint Rahul Gupta (former CEO of RevSpring, a healthcare billing and payments company) to the Board, and agreed to add another, mutually agreed-upon director to the Board. Additionally, the Company agreed to form an ad hoc Strategic Review Committee to assist the Board as it considers various strategic alternatives. DE Shaw agreed to abide by certain voting and standstill restrictions.

Click [here](#) to view our UTT report.



On March 13, 2023, **Carl Icahn** sent a letter to **illumina, Inc's (ILMN)** shareholders announcing his intention to nominate Vincent J. Intrieri, Jess A. Lynn, and Andrew J. Teno, for election to the Company's Board at the 2023 Annual Meeting. Additionally, Icahn criticized the Company's acquisition of GRAIL Inc, which he believes has led to \$50 billion of value destruction.

Click [here](#) to view our UTT report.



On March 6, 2023, **Legion Partners Asset Management** (1.5%) nominated the following four director candidates for election to **Primo Water Corp's (PRMW)** 10-person Board: (i) Henrik Jelert, Former President & CEO of ReadyRefresh, Blue Triton Brands; (ii) Lori Tauber Marcus, Founder of Courtyard Connections and former SVP of Marketing Activation at PepsiCo; (iii) Derek Lewis, former executive at PepsiCo, where he spent 35 years; and (iv) Timothy Hasara, Founder, Managing Partner, and CIO of Sinnet Capital Management. Legion highlighted the Company's long-term operating and share price underperformance, noting their concerns with the Board's poor oversight of customer growth despite their expanding consumer market, profitability, capital spending, and overall alignment with shareholders. Additionally, Legion pointed out that the Board's lack of alignment with shareholders, as net sellers of stock since November 2021, and noted their failure to hold management accountable. Finally, Legion expressed their belief that their nominees could help the Company triple the stock price over the next five years.

On March 17, 2023, Legion publicly condemned the Company's entrenchment and disenfranchisement tactics, citing its personal attacks against Legion's nominees following the Company's invalidation of their nomination notice.

On March 22, 2023, Legion filed a lawsuit against the Company in response to the Company's rejection of their nomination of four directors. Legion's suit asked the Court to validate their nomination at the Company's 2023 Annual Meeting and sought a declaration by the Court that the Board's actions to alter its advance notice bylaws in November breach the Board's fiduciary duties.

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UNDER THE THRESHOLD

NEW



On March 20, 2023, **Lion Point Capital, LP** (3.84%) and **Semtech Corporation (SMTC)** entered into a Cooperation Agreement, pursuant to which the Company agreed to increase the size of the Board from 10 to 12 directors and appoint two directors ultimately selected by Lion Point, who will stand for election at the 2023 Annual Meeting. The Company also agreed to confer with Lion Point on the appointment of two additional independent directors, ultimately to be selected by the Company. Further, the Company agreed to establish a CEO Search Committee, on which the two Lion Point directors will serve. Lion Point agreed to abide by certain customary voting and standstill provisions.

UPDATES



On March 29, 2023, **Cardinal Health Inc. (CAH)** announced that it is exploring a potential sale of its nuclear medicine business, as part of its review of strategy and operations. **Elliott Management** (0.8%) has a board seat for Steven K. Barg, Global Head of Engagement at Elliott.

Click [here](#) to see UTT history



On March 27, 2023, **Elliott Management** announced that they will no longer move forward with their director nominations at **Salesforce Inc. (CRM)**, following the Company's positive financial results and other changes initiated at the Company in recent weeks, including cost cutting, increasing share buybacks and disbanding an M&A committee.

Click [here](#) to see UTT history

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AROUND THE WORLD



NEW



On March 28, 2023, Cellnex appointed Anne Bouverot as nonexecutive chair, replacing Bertrand Boudewijn Kan less than a week after TCI Fund Management announced that it would seek his removal. The Company stated that with the new appointment it will continue to search for a CEO.



Inclusive Capital has a stake in **Corbion NV**, an Amsterdam-based food and biochemicals company. Click [here](#) to view our Views & Commentary.



On March 28, 2023, **Inclusive Capital Partners** (5%) sent a letter to Nassef Sawiris, Executive Chairman at **OCI N.V.**, expressing their belief that OCI is worth approximately 90% more than its current stock price and calling on the Board to explore strategic options to unlock the Company's value. Inclusive believes that OCI's methanol business, combined with their low carbon



ammonia project in Beaumont, has significant strategic value and could generate interest from large energy players looking to accelerate their energy transitions. As a reference, Inclusive cited BP's acquisition of biogas producer Archaea Energy for \$4.1 billion (29x EV/'22 EBITDA) in December of 2022; Chevron's acquisition of Renewable Energy Group for \$3.1B in June of 2022; and Shell's acquisition of Nature Energy Biogas for \$2B in November. Additionally, Inclusive noted that OCI's modern, strategically located Iowa Fertilizer Company plant would be of great value to pure-play fertilizer companies, such as Nutrien, seeking nitrogen production in the U.S. corn belt. Further, Inclusive recalled that Fertiglobe's (Jeff Ubben sits on the Fertiglobe Board) successful IPO showed the value within OCI's portfolio, with OCI's stake in Fertiglobe worth nearly their entire market capitalization in the past year. They believe that this IPO was a good first step to demonstrate value, but to unlock further value, OCI should consider additional share listings or a sale. Click [here](#) to view our Views & Commentary.



On March 22, 2023, **Engine Capital LP** (2%) sent a letter to **Parkland Corporation's** Board calling on them to initiate a strategic alternatives process, including a possible sale or tax-free spinoff of non-core assets in order to become a more focused fuel and convenience retailer.



Engine also called for a board refreshment and an improved compensation framework to better align management's incentives with shareholder's interests. Engine believes that the Company's aggressive M&A strategy has led to a large range of assets that detract from the Company's underlying valuation, and it would be valued much higher if it were to become a pure play fuel and convenience retailer. Engine believes that the Company could be worth \$45 per share (currently trading in the low \$30's) if the Company follows its recommendations. Finally, Engine stated that if the Board is unwilling to optimize the business, they believe the Board should consider a sale of the entire Company to either private equity or strategic buyers.



On March 9, 2023, **Snowcap Research** and **Market Forces** expressed their opposition to **Santos Ltd's** growth strategy, expressing their belief that executive incentives are driving up investments in upstream growth projects, potentially raising carbon emissions and reducing shareholder value. Market Forces filed a statement urging the Company's shareholders to



vote against the remuneration report at the upcoming Annual Meeting on April 6th. Additionally, Snowcap noted that the Company should take immediate action to reduce their upstream capex, increase capital returns, and realign executive incentives.

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AROUND THE WORLD



NEW



On March 7, 2023, **Oasis Capital Management** (6.5%) called on **The Restaurant Group** to make significant changes to their operations or remove their CEO. Last month, the Company rejected a request from Oasis for a board seat after Oasis publicly called for the Company to shake up management and to commence a strategic review. Oasis noted that they initially approached the Company's Board privately but were forced to make the discussion public after the Company rejected their suggestions.



On March 7, 2023, it was reported that **Irenic Capital Management** took a stake in **The Restaurant Group Plc** and has engaged in private discussions with the Company regarding the potential divestiture of the pubs and concessions businesses, increasing disclosure around the profitability of Wagamama and reducing corporate costs. Oasis Capital Management also holds a stake in the Company.



On March 22, 2023, **Vistry Group PLC** announced the appointment of Jeff Ubben (5.9%) as a non-executive director to the Board and the upcoming resignations of two incumbent directors. Previously, **Inclusive** had a 9.2% stake in Countryside Partnerships and offered to acquire Countryside for £1.5 billion, which was rejected. Ultimately, Countryside was acquired by Vistry in November 2022 for £1.3 billion in a cash and stock deal supported by Inclusive. This investment also has an AESG thesis which is centered around social equality – developing affordable, sustainable housing.



Click [here](#) to view our Views & Commentary.

UPDATES

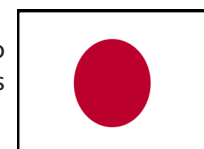


On March 10, 2023, **Crescendo Partners** sent a letter to **Canaccord Genuity** regarding a proposal by the Company's management to take the Company private. Crescendo expressed its belief that the Company should no longer be public but believes that the Company's Special Committee should reach an agreement on an improved acquisition price. Finally, Crescendo

noted that if the Special Committee does not reach an agreement that leads to a transaction, they intend to support a slate of directors being proposed by Skky Capital Corporation at a requested upcoming shareholder meeting.



On March 9, 2023, **Dai Nippon Printing Co Ltd** announced that it would buy back up to 15.05% of its outstanding shares to boost capital efficiency, following **Elliott Management's** call for more aggressive share buybacks.



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AROUND THE WORLD



UPDATES



DeLaRue

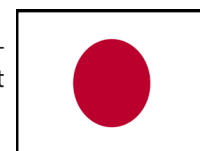
On March 31, 2023, **Crystal Amber Fund** (9.8%) called for a meeting of **De La Rue's** shareholders to vote on the removal of Chairman Kevin Loosemore and his replacement with Pepyn Dinandt. Last year, Crystal Amber unsuccessfully called for the Loosemore's resignation but the majority of shareholders voted for him to stay in his role.



On March 6, 2023, **Sandpiper Group, Artis Real Estate Investment Trust, and First Capital REIT** entered into an Agreement pursuant to which Sandpiper and Artis agreed to withdraw their previous special meeting request as well as their nominees for election to the Company's Board. Sandpiper noted that it will continue to collaborate with the Company and agreed to abide by customary standstill provisions.



On March 28, 2023, **Fujitec Co. Ltd.'s** Board ousted chairman Takakazu Uchiyama, following **Oasis Management's** call for his removal. Oasis currently holds four board seats at the Company.



On March 28, 2023, at **KT&G's** Annual Meeting, shareholders voted in favor of all of the Company's proposals and against **Flashlight Capital's** proposals. Flashlight expressed its disappointment in the results, but noted that it was encouraged that a majority of unaffiliated and foreign shareholders voted for their proposals to cancel the Company's treasury shares, increase the share buyback program and elect their independent nominees to the Board.



On March 20, 2023, **Murchinson Ltd.** (5.5%) announced that all four of their proposals were approved by shareholders at **Nano Dimension Ltd.'s** Annual Meeting on March 20, 2023. Murchinson's proposals included the removal of four of the Company's current directors, including Chairman and CEO Yoav Stern, and the appointment of Murchinson's two candidates, Kenneth H. Traub and Dr. Joshua Rosensweig. Additionally, they submitted proposals to allow shareholders to fill vacancies on the Board and to remove directors by a simple majority. Finally, Murchinson urged the Board to enact the supported Board changes and to withdraw their lawsuit against Murchinson.



On March 31, 2023, **RWE** rejected a motion by **ENKRAFT** against the Company's plans to seek authorization from shareholders to issue convertible bonds without giving existing investors the option to subscribe. ENKRAFT filed the motion arguing that waiving subscription rights allowed the firm to give preferential treatment to individual investors. Additionally, the motion came in response to the Company's move to launch a €2.4 billion convertible bond exclusively to the Qatar Investment Authority to make them the biggest shareholder in the Company.



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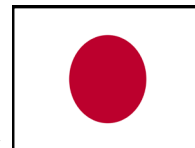


AROUND THE WORLD [UPDATES](#)

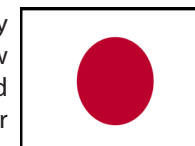
★ SAPPORO

On March 14, 2023, **3D Investment Partners** (4%) sent a letter to **Sapporo Holdings Co's** shareholders highlighting the Company's operational underperformance – notably in their core business of alcoholic beverages; and corporate governance failures – highlighting the medium-term management plan, board composition, and current Chairman's potential conflicts of interest. Additionally, 3D emphasized the Company's poor strategy and transparency

in the use of their real estate business masking the low profitability of their beverage business over the past decade. Further, 3D urged shareholders to share their perspectives on the Company's strategy, capital allocation, business configuration and corporate governance in order to meaningfully take action.



On March 8, 2023, **Seven & I Holdings Co** announced that they are closing approximately 25% of its Ito-Yokado stores in Japan, following calls from **ValueAct Capital** (4.4%) to narrow the Company's business focus on its 7-Eleven stores. Previously, the Company announced that it would overhaul the Board in order to have a majority independent directors and later announced a sale of its Sogo & Seibu Co department store to Fortress Investment Group.



On March 24, 2023, ValueAct Capital announced that they nominated four directors to Seven & i Holdings' 14-person board and are seeking the removal of four incumbent directors, including the Company's President Ryuichi Isaka. Additionally, ValueAct pointed out the Company's persistent conglomerate discount, governance failures, and failed corporate strategy.



On March 17, 2023, **Suncor Energy** and **Elliott Management** (3.4%) entered into an amended Agreement pursuant to which the Company agreed to extend Elliott's right to appoint an additional director to the Company's Board from March 17, 2023 to March 31, 2023. Previously, pursuant to the Agreement between Elliott and the Company, the Company appointed three independent directors to the Board.



[Click here for more information and to read about the ongoing situations Around the World](#)

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