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An Interview with Carrie Webb Olson

"Nearly every business has at least one trademark," according to Carrie Webb Olson, and this fact may explain why the business of Day Pitney's Trademark, Copyright and Advertising practice group is booming. "A brand name -- and how companies treat their brands -- can tell a consumer the entire story of a business, good or bad. Our job as trademark lawyers is to help clients recognize and understand the value in trademarks -- taking the legal principles behind the law and applying them to real-time marketing and business decisions."

As chair of Day Pitney's Trademark, Copyright and Advertising practice group, Carrie, along with a team of 20 attorneys, paralegals and specialists, tackles a diverse docket of client needs. Carrie and her team are constantly on the move, whether reviewing large-scale advertising campaigns for a global financial services firm, clearing trademarks for use and registration by a new apparel company, advising a well-known sports and entertainment enterprise on brand expansion, managing the international trademark portfolio of a venerable yacht manufacturer, protecting the name of a leading health and wellness company, or shoring up copyright protections for a wildly successful online gaming site.

"The wide variety of questions that I receive is what makes the practice so exciting. We are at the forefront of rapidly evolving business models, helping our clients navigate and protect their rights in the global economy and in the boundless territory of the Internet." We were able to convince Carrie to take time out of her busy schedule to answer some questions about her trademark practice.

1. How did you become involved in trademark law?

I am fascinated with the "business of brands" and the extraordinary power they have in local and global marketplaces. I grew up in the hospitality industry -- this training provided the foundation for my keen focus on quality and customer service. As a consumer, I have high standards for quality and service. Every experience a consumer has with a particular trademark shapes his or her perception of what that brand and company represent. The fact is, consumer perception of a business is a significant factor in driving the value of a company and its products and services. When companies (and individuals, who also have "brands") commit to the highest standards of excellence, the brand value soars. There is a direct relationship between a brand owner's awareness and management of its trademarks and its ability to be a conscientious participant in the international economy. My work helps companies identify their assets (and liabilities), and we work together to protect and strengthen their standing in the marketplace.

2. What keeps you interested in trademark law?

Because trademarks are "born" out of creative minds, the work is always interesting. I enjoy being around innovative and entrepreneurial people and find it rewarding when I can contribute to their efforts.

Most clients find this area of law interesting and want to learn more. When launching new endeavors, our basic mantra is (1) pick a name that is distinctive -- one that sets your product and/or service apart from your competitors, (2) clear the trademark to make sure that use will not infringe on another's rights and (3) understand where your rights will start and stop with respect to the proposed mark -- you don't want to invest in a brand that has little strength to differentiate itself or one that can't be protected from encroachment by third parties with confusingly similar marks. Determining whether a mark is "available" and "protectable" often feels like a form of art. Delivering the analysis to clients is a balancing act, with the law on the one hand and marketplace and business realities on the other.

There are constantly changing opportunities and challenges in this area of the law. The Internet and electronic commerce is a big part of our practice. Ten years ago we were fighting for the rights of brand owners against "cybersquatters" who were

registering trademarks as domain names; now we are counseling clients on trademark issues relating to keyword advertising and Internet search engine optimization strategies.

The diversity of our practice has me working with numerous industries all around the world. It is fun to work with a small-to-midsize company that is just learning about trademarks and how they can be used (and need to be protected) to increase market presence. I enjoy helping business and marketing professionals understand the basic principles of trademark law, which, once learned, can be aligned with business goals, resulting in a positive experience with a new brand name.

I also enjoy the relationships with in-house counsel of large, publicly traded companies that have hundreds of trademarks in hundreds of countries. The strategies and objectives can be more complex and involve different issues, including understanding the differences in trademark laws around the world, managing ownership interests and planning for acquisition or divestiture of the assets.

Every day when I check my e-mail, there are inevitably unique challenges and opportunities.

3. Has your legal practice changed your everyday (nonlegal) life?

As a consumer, I am always assessing product names and judging, in the first instance, whether I think the mark is a "good" one and considering the challenges and opportunities for the owner with respect to effective trademark management. I can't help but take frequent note of improper trademark use.

My children are now trademark savvy -- we eat Cheerios[®] cereal, buy Ugg[®] boots and use Kleenex[®] tissues. I like to develop brand awareness in our kids, not only so they can become sophisticated consumers (particularly in the online world with the proliferation of advertising directed to children), but also to introduce them to the business behind the products and/or services they consume.

"Brand-wise consumers make informed decisions; brand-wise companies can count on their trademarks representing the real value and good will the company has worked so hard to build," Carrie concluded. And with that, she ended the interview, picking up the phone to respond to a client concerned about a potential infringement matter.

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