

BUSINESS



'IT'S ABOUT WINNING' Edgar Haug is one of the founding partners at the law firm Frommer Lawrence & Haug.

LUNCH AT THE FOUR SEASONS

Fighting for Intellectual Property Rights

By PRANAY GUPTÉ
Special to the Sun

Edgar Haug not only practices intellectual property law, he performs it, and he does so in an increasingly global arena.

Like all litigators, Mr. Haug, one of America's more prominent intellectual property lawyers, knows he's always onstage during a trial, especially with juries. But he also knows that it's relatively uncommon for jurors to approach participating attorneys after a trial is over.

"So I was somewhat intrigued when, after a particularly contentious lawsuit that I won in Brooklyn, a juror came up to me," Mr. Haug, one of the founding partners of Frommer Lawrence & Haug, said. "I thought she was going to reveal how the jury arrived at its decision. Instead, the juror said, 'You know, for the last one-and-a-half months we've been trying to figure out where you were from — are you from California?'"

Mr. Haug is from Hermannsburg, Germany. He grew up as the only son of immigrant parents, Heinz Stanick, a dentist, and Maria Kren, in the Ridgewood section of Brooklyn. (He uses the family name of his stepfather, Fred Haug, who, along with his mother, raised him from the age of 7.)

Ridgewood is a middle-class neighborhood, and not especially known for having spawned a particular line of fashion. As a litigator, though, Mr. Haug understands that attire and accoutrements in a courtroom matter. While at St. John's Law School in Queens, he was struck by how sharply dressed some of the city's most successful lawyers were.

And as he found out not long ago, a lawyer's deportment can be scrutinized by jurors.

"One juror told me, after the trial, 'Where do you get your ties? The other side's lawyers always seemed to wear cheap ties and had holes in their shoes,'" Mr. Haug said.

Such light moments may be pleasing to a high-profile lawyer such as Mr. Haug, but they are few and far between. Intellectual property has emerged as among the most contentious and worrisome issues for business globally, and especially in America, where industries including telecommunications, publishing, entertainment, and pharmaceuticals are finding themselves victimized by theft of patents and research.

"How we deal with the issue is going to determine whether America will continue its dominance in technology, biosciences, communications, and other fields," Mr. Haug said. "For businesses, it isn't just a question of theft or piracy by foreign companies, often in countries where intellectual property laws don't exist or are loosely interpreted. What happens when your own employees transfer your technology to rivals?"

Such abuses of intellectual property can prove enormously expensive. Mr. Haug cited the case of Pfizer's best-selling drug Lipitor, which may soon be produced in generic form by Ranbaxy, an Indian pharmaceutical company. A decision from a federal court in Wilmington, Del., is being closely followed by the industry.

"Many companies survive on their patents," Mr. Haug said. "If their patents are lost or replicated without compensation, their future is in great peril. The losses can be staggering."

The United States Trade Representative said earlier this year in a report titled "Special 301" that the annual losses to American businesses as a result of such intellectual property piracy are more than \$250 billion. The pharmaceutical industry alone, by a conservative estimate, loses more than \$20 billion a year in drugs going generic, according to the trade representative.

"And this figure, of course, does not include the loss of IP rights through infringement or litigation to vitiate IP rights," Mr. Haug said. He pointed to the trade representative's concern over the rampant piracy in China and to the fact that the country has become a leading exporter of counterfeit goods to the rest of the world.

The trade representative's report also focused on 52 of America's trading partners, including Argentina, Brazil, Egypt, India, Indonesia, Israel, Kuwait, Lebanon, Pakistan, Paraguay, the

Philippines, Russia, Turkey, and Venezuela. In addition to dispute resolution, the Bush administration has said it may well consider sanctions and fines against violators, as it has demonstrated in the case of Ukraine.

The widening scope of intellectual property issues means that litigators like Mr. Haug frequently fly from courtroom to mediation chambers all around the world. Last week, for example, Mr. Haug was in Japan. He's often at his San Diego office. He has appeared before the British High Court in London, the German Federal Supreme Court in

isn't generally appreciated. Consider the jobs that can be lost, for example."

A conversation with Mr. Haug can morph into a lively tutorial on the law. His ability to explain jargon and arcane cases to a jury — and to the press — is well known in the legal industry. He has handled litigation involving patents, trademarks, copyrights, and trade secrets for many of the world's leading companies, including Tokyo Electron, the Sony Corporation, Shire Pharmaceuticals, Merck, and Par Pharmaceuticals.

A conversation with him also demonstrates his erudition on the evolution of intellectual property laws. The first codification of intellectual property can be traced to the Jewish laws in the Talmud, which declared a prohibition against "Gnevat ha data" — literally the theft of ideas. The type of ideas subject to theft and a further explanation may be found in the Shulchan Arukh, according to the literature.

But the term intellectual property appears to have originated with a French author, A. Nion. In his "Droits civils des auteurs, artistes et inventeurs," published in 1846, he used the term "propriété intellectuelle." The term did not come into significant usage until the World Intellectual Property Organization was created in Geneva in 1967.

Mr. Haug, however, isn't necessarily enthusiastic about the effectiveness of global bureaucracies in adjudicating intellectual property issues.

"International organizations are only useful up to a point," he said. "They are supported and run by member states — and as a result, they bring to those organizations their own particular political, social, and economic agendas. As a result, they often cannot agree on the best solutions for intellectual property issues."

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Karlsruhe, the Tokyo High Court — where he also opened a new office for his law firm — and the World Court in The Hague.

"I'm really not a passenger on these flights around the world," Mr. Haug said. "I'm hired to be a jet-fighter pilot. I try to hit targets. It's not only about legal fees — it's about winning. Globalization has made my job more difficult, more challenging. But the importance of a court decision on intellectual property cases can affect everyone's lives — this