

Daniel Frohling

Making His 'Mark' on the Legal Community

by Amy Hoffman

As an undergraduate student at the University of Michigan, Daniel D. Frohling was interested in doing something good with his life, and it seemed one good way to make an impact was through the practice of law. Today, Frohling is a partner at **Loeb & Loeb LLP**.

He went to law school in hopes of getting into public interest law, but he got out with student loans. He and his wife had agreed that he would join the corporate law world for a few years while she pursued a career as a professional dancer.

Two weeks before taking the Illinois bar exam he got a fortune cookie. The auspicious fortune read, "You will pass a difficult test that will make you happier and more financially secure." He didn't know it then, but that fortune was going to come true. That fortune sits in a silver fortune cookie in his office to this day.

Frohling came to Chicago after graduating from the University of Michigan Law School. He was hired by Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP to do intellectual property work.

"The Pattishall office was chock-full of products from clients it had represented—from stuffed plush toys to bottles of Scotch. To me, a newly minted lawyer, it all looked fun," Frohling says.

"More importantly, the legal issues they talked about were very interesting. I thought I could do this for three or four years." Of course, life sometimes takes unexpected turns and almost 30 years later he is still practicing intellectual property law.

Ten years ago and after almost 20 years at one firm, Frohling and a few of his colleagues started looking for a new firm where they could make a meaningful contribution and spend the second half of their careers. They shopped around for a while before settling on Loeb & Loeb.

"Loeb seemed like a firm with a great culture. It seemed like a firm of people who were not only interested in doing quality legal work but also in supporting each other," says Frohling. "Fortunately, we were right about Loeb, and it has been a very enjoyable experience."

"Working with Daniel for these past 25 years has taught me that being a good lawyer is more than just being a skilled practitioner," says Douglas Masters, a fellow partner at Loeb & Loeb. "It also means putting clients first, treating your colleagues and opposing counsel with respect, and never resting on your laurels."

"Daniel's ability to connect with clients and build lasting relationships has been a hallmark

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of his career,” says Masters. “Clients know how much he cares, and his loyalty and commitment breeds the same in return.”

Fun Clients, Interesting Cases

Frohling has had the opportunity to handle many interesting and memorable cases throughout his career thus far.

Some years ago, a company filed to federally register the trademark “IF YOU DON’T BUD, YOU AIN’T WISER” for “live flowers, namely rose buds.” Frohling opposed the application on behalf of his client Anheuser-Busch on the grounds that people would likely believe the applicant’s flowers were marketed, sponsored or approved by their client.

“The case was a challenge given the marks and goods involved, but we got a good result for the client,” Frohling says.

“It was great fun from an intellectual property law perspective because we developed evidence (working with a linguistics professor from Northwestern University) showing how, based on the words in and the construction of the phrase, speakers of American English would make the connection with Budweiser.”

Another favorite case for Frohling was a cybersquatting/RICO case out of New Orleans in which a group of defendants had registered about 350 domain names that violated his client’s registered trademark rights. “Like a good story from the bayou, the case took several strange and unexpected turns,” says Frohling. “The defendants were shady and elusive, and their counsel was mercurial. Our first judge was even removed from the bench during the case for ethics violations.”

After a year of discovery, pre-trial motions (on which they were fortunate to prevail), and a settlement conference with the magistrate, the defendants were poised to agree to an injunction and make a seven-figure settlement payment.

“However, when we showed up for a second, private mediation to work out the final details, we discovered that the defendants had hired new counsel and were telling the mediator their offer was less than 10 percent of their previous offer,” Frohling recalls. “Needless to say, it was a wild day. In the end, our client hung tough, and we ended up with the injunction and more than the original amount of money.”

Over the years, in addition to Anheuser-Busch, Frohling has also represented clients such as Dell Inc., Kendall-Jackson and Saks Fifth Avenue.

Daniel Noonan, executive director of Dell Inc., has known Frohling for 20 years. “He is a subject matter expert in the areas of copyright, trademark and unfair competition,” says Noonan. “He is a great lawyer. He really thinks about the problem and takes his time.

He takes and defends depositions with the best of them. He is cost effective, which is very important to me as in-house counsel.”

Sunny Park, vice president and associate general counsel for Saks Fifth Avenue, has worked with Frohling for more than seven years. “Daniel has been integral in helping Saks define long-term, strategic goals for the brand on a global level, while offering a practical approach on day-to-day matters,” says Park. “I view him and his team as partners with our business groups.”

Tiffany De Liberty, former vice president and senior counsel for Kendall-Jackson and currently name partner of De Liberty Law, says Frohling “was my go-to person for trademark and intellectual property issues. We had a large portfolio of active marks and needed a systematic way to manage them all in a competitive market.

“Daniel put together a program to help us accomplish that,” De Liberty says. “He has been a fabulous resource. He is an expert in the area of intellectual property law. He is the go-to person on strategy, helping to manage cost and exposure.”

Michael Lisi, a partner at Honigman Miller Schwartz in Bloomfield Hills, Mich., notes that Frohling has handled trademark litigation for the firm’s clients in the Northern District of Illinois.

“He is an expert in trademark litigation. He is an effective litigator and a fierce advocate for clients in court. Out of court, he is effective in negotiating favorable settlements for clients.”

The Changes the Internet Brought

“As clients’ marketing opportunities and challenges have expanded—due to changes brought about by the Internet and social media—my practice has expanded from negotiating service agreements between advertisers and their agencies to assisting clients who have applied to register new generic top-level domains (gTLDs).

“There are a variety of things I do in my practice now that stem from the early days of defending people’s brand rights,” says Frohling. “It has been a lot of fun. There has been a revolutionary change in trademark law over the last 20 years.

“In the ’50s, ’60s and ’70s there was a tremendous up-ramp in advertising—with advertising on TV—and there was the introduction of a concept called ‘dilution,’” says Frohling.

Prior to that, brand owners were not really considered to have owned their brand, and there was a great deal of litigation relating to brand ownership. Then a period of 10 years followed when there weren’t any significant issues.

“In the last 15 to 20 years, it has just been crazy,” Frohling says.

“The most satisfying aspect of my practice is providing creative and strategic, thoughtful

leadership; that is, assisting clients in determining how to achieve their goals and manage risk,” Frohling says.

“It affords a chance to assist with big picture, strategic thinking—both legal and pragmatic—and counsel on how to effectively translate the strategy into a matrix of tactical actions,” he says.

“The more I can help clients not with just one particular problem but with how that particular problem or opportunity fits into the larger scheme of things—whether that’s a large marketing program or something going on throughout the company—the greater the value I can provide.”

Kindness in Grooming New Lawyers

“Developing and supporting young lawyers has always been a key professional reward for me,” Frohling says. “When I was a developing lawyer, it was common practice for partners to help young lawyers hone their skills. I learned to be an organized, persuasive writer and a skilled oral advocate because people took the time to do that. It was a tremendous benefit.

“That said, partners’ interpersonal styles weren’t always supportive, and they focused on skills, not the development of a career,” he says. “For example, a legendary partner phrase at my former firm was, ‘Did you think wrong or just not think?’ My goal has been to be a positive force in helping junior lawyers develop successful, rewarding professional lives.”

Nate Hole, a Loeb associate, is someone Frohling has taken an interest in and mentored over the years. “Daniel puts more into attorney development than anyone I know,” says Hole. “A lot of what I am as an attorney I owe to him.”

“He has the ability to look at all angles of a case and help young lawyers think through that,” Hole says. “I am lucky to have him as a mentor.”

Frohling has not only worked one-on-one with junior lawyers, but he has spent many years serving on the firm’s professional development committee.

Frohling’s wife, four children and dog are all proudly displayed in pictures in his office. His wife, Susan, also an attorney, is chief trademark counsel for Kraft Foods. His daughter Morgan is a senior at the University of Illinois. His son Will is going into sixth grade. Jack and Kate, twins, are going into fifth grade. Munch, the family dog, is an English bulldog.

Frohling spends most of his free time with his wife and children. He is also the Cubmaster of the Cub Scout pack in Winnetka, where they live. He currently takes voice lessons, something he has always been interested in. He also likes to read and enjoys gardening when he has the chance. ■