

Profiles in IP Law

An Interview with Horace G. Dawson III, Executive Vice President, External Relations and General Counsel, Red Lobster Seafood Company

By Darrell G. Mottley

Darrell G. Mottley is a shareholder of the intellectual property law firm of Banner & Witcoff, Ltd. He blends combinations of design patent, utility patent, trademark, and copyright intellectual property tools for creative, innovation-driven clients. He can be reached at dmottley@bannerwitcoff.com and on Twitter @darrellmottley.

Horace Dawson is executive vice president and general counsel of Red Lobster, the world's largest seafood restaurant company. In this role, Horace leads legal affairs and is also responsible for international operations, communications, government and community relations, and sustainability. Horace received his undergraduate, law, and masters of business administration degrees from Harvard University.

You are a leader in corporate and intellectual property (IP) law. As executive vice president and general counsel of Red Lobster, please tell us about a typical day in your life at work.

One of the things I love about my job is that there is no such thing as a typical day! For over two years, Red Lobster has been owned by a private equity firm, Golden Gate Capital, which was a change for us after being a part of a public Fortune 500 company. We are now a much leaner organization and are operating as if we're a 48-year-old startup company. We own and operate all of our more than 700 restaurants in the United States and Canada. We also have 50 international restaurants that are franchised, so my international responsibilities include meeting with current and potential franchisees. Day to day, I oversee the legal department, and while other lawyers in the department handle most legal issues, I handle most of the intellectual property issues with our trademark paralegal. In addition, I have responsibility for the communications, international, and government relations teams. I have regular strategy meetings with members of the executive team and department heads relating to one or more of my areas of responsibility.

Please tell us more about how your past positions at Darden Restaurants, Hard Rock Cafe International, and the Telemundo Network prepared you for your leadership role at Red Lobster.

I value my previous in-house experiences because they have prepared me well to be a generalist. I started working with the Telemundo Network at its inception, and I was the first in-house lawyer at Hard Rock Cafe. There is nothing like the excitement of working for companies when they are small, new, successful, and growing quickly. Both of these opportunities allowed me to be involved in a wide range of legal and business matters, which has helped to shape me into the leader I am today.

Specifically, Hard Rock taught me the value of trademarks and the importance of not only protecting how they are used today, but also anticipating what they may grow into in the future. For example, when I started at Hard Rock, the focus was on food and beverage and merchandise, but over time the focus shifted to hotels and gaming, including Internet gaming. In my next career move to Darden Restaurants, I had the opportunity to deepen my understanding of the role of intellectual property in the restaurant industry, particularly as the brand portfolio evolved. Red Lobster was the company's original brand, but Darden developed and acquired several more, including Olive Garden, LongHorn Steakhouse, The Capital Grille, Seasons 52, Yard House, Bahama Breeze, and Eddie V's.

What would you say is the most challenging aspect of your position at Red Lobster? And what is your favorite aspect of your position at Red Lobster?

The most challenging aspect of my position is the need to be able to address issues from different perspectives. At times it almost feels as if I need to battle things out with myself, as there can be some natural tension between the risk avoidance that is a key element of the legal role and the premium on "pushing the envelope" in some business roles. My previous in-house roles have helped me hone the ability to craft business-friendly solutions to problems with acceptable legal risk as opposed to simply stating legal objections. The ability to contribute on both a legal and business basis is not only the most challenging aspect of my position, but also the most rewarding.

Could you give us a sense of how Red Lobster integrates its global IP assets into the company's business strategy?

To support Red Lobster's vision to be "Where the World Goes for Seafood, Now and for Generations," we have a distinct approach to franchise relationships, which fuels our international growth. For American casual dining brands, the typical franchise model asks franchisees to take the American brand "as it is" domestically—same menu, same design, same service—and operate it in a very specific way that replicates the brand exactly in an international market. For some brands that approach creates challenges—it doesn't account for local market nuances and in fact stifles brand adoption in the international market. So, Red Lobster has done it differently, partly because seafood is a complex business from a supply chain standpoint, but also because of seafood's versatility and broad global appeal.

We also offer iconic promotional events, such as Lobsterfest[®] and Endless Shrimp[®], along with iconic menu items, such as Cheddar Bay Biscuits[®] and the Ultimate Feast[®], which our guests crave. We aim to introduce our unique seafood dining experience and events around the world, so a robust trademark portfolio is an integral part of those plans, while balancing flexibility to allow our trusted franchisees to innovate to be relevant locally. In short, we use our trademark strategy to differentiate our offering from those of the competition.

The Red Lobster brand has been the most recognized top global brand in the seafood restaurant industry. What are some of the actions that Red Lobster has done to maintain its brand positioning over the years?

Red Lobster has almost 100 percent brand awareness and is the world's largest restaurant purchaser of seafood. Not surprisingly, we have had a lobster as part of our logo from our first days in 1968. The lobster on our current logo (who we fondly call "Clawde") has been featured on our signage and on our menus for over 22 years. Historically, Clawde always appeared with the brand name "Red Lobster." Because Clawde has become iconic and associated with the brand we began to use it by itself ten years ago. In light of the vast and extensive exposure, we've been able to demonstrate that even though it is an anatomically correct crustacean, it has acquired a vast secondary meaning and distinctiveness. We obtained a registration for Clawde under Section 2(f) in 2012.

As a seafood expert, we have introduced guests across the country to new seafood species, including snow crab, tilapia, and calamari. And, we continue to innovate and offer new things, like Bairdi crab and wild-caught Alaska Sockeye and Coho salmon. We've also made sure we are listening to our guests and evolving our menu to meet their needs. We recently introduced Bigger, Better Shrimp, which made meaningful changes to both the preparation and presentation of our shrimp dishes, impacting more than 70 percent of our entrees featuring shrimp. We also innovate with flavors, most recently introducing Korean BBQ Shrimp as an option during our Endless Shrimp event. Our guests are noticing, too. We're seeing record-level guest satisfaction scores.

How does Red Lobster continue to innovate?

Besides introducing guests to new seafood species and offering unique preparations and exciting, new, and innovative flavors to complement guests' favorite seafood proteins, we focus on sourcing seafood responsibly. While the ocean may seem endless, its supply of seafood is not. That's why we take so much pride in protecting the sea and its bounty of fresh fish and shellfish. We have strong relationships with top seafood suppliers from around the world that allow us to source seafood responsibly and sustainably on a large scale. Our sophisticated supply chain allows us to bring top-quality seafood to our more than 700 restaurants in the United States and Canada. We stay on top of industry trends and look for ways to efficiently deliver fresh food and an unmatched dining experience.

Can you give a sense of how important the concept of diversity and inclusion is in the legal field from your perspective as a General Counsel of Red Lobster?

The concept of diversity and inclusion is extremely important to us. From its beginning in landlocked Lakeland, Florida, Red Lobster has been a leader in diversity and inclusion in its workforce and in welcoming guests of all backgrounds. That legacy continues to this day. Red Lobster ranks highly for its number of minority employees and female restaurant managers. In our legal department, 50 percent of our lawyers are minorities and 50 percent are female.

IP law and entertainment media is an increasing topic of public discussion. Can you describe your time as Vice President of Business Affairs and General Counsel of Hard Rock Cafe International and your work with the Telemundo Network?

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Intellectual property was a very big part of my work at Hard Rock Cafe. The company was started by two young Americans living in London who were lamenting about the fact that you couldn't get a great American diner-style burger anywhere in London. They opened the restaurant in an abandoned car showroom in London in 1971 and quickly caught on with the "British invasion" rockers who had come to love American hamburgers. The brand's great success happened organically. The memorabilia collection started when Eric Clapton donated a guitar to hang across from his favorite spot at the bar, and then Peter Townshend of the Who wanted his hung up as well. Merchandise sales started because the restaurant sponsored a kid's soccer team. The iconic logo was designed to go on their soccer shirts, and the restaurant began selling soccer shirts from the host stand in response to local demand. The brand quickly achieved worldwide fame, and it was very challenging to secure trademark rights and battle infringers around the world who sought to cash in on the brand fame, particularly counterfeit merchandise.

One of the more interesting activities was a meeting with Lebanon's Prime Minister Rafik Hariri to solicit government support in a successful effort to shut down a fake Hard Rock Cafe in Beirut. We first found out about the fake Hard Rock Café by a photo that one of our fans sent us of an impressive looking restaurant that had taken some pains to replicate our distinctive trade dress. They had an extensive memorabilia collection with items said to be played and signed by famous musicians—but as memorabilia experts, we knew they were fake. Our efforts to enjoin their infringement through the court system were ineffective, but making the argument to the Prime Minister, with the help of the U.S. Embassy, that having such a prominent infringement in their capital city did not reflect well on the country seemed to work. The Hard Rock Café-Beirut "voluntarily" switched to a local brand soon thereafter.

Launching Telemundo was also a very exciting project. The Spanish-speaking population was growing at about five times the rate of the rest of the population. The Spanish-speaking population was holding on to its native language, especially at home, at a higher rate than previous generations. In many major markets, such as Los Angeles, the Spanish-language networks were number one and two in ratings during key time periods, such as news hours, because the English-speaking viewers were split between so many channels while Spanish-speaking viewers were primarily watching just two: Univision and Telemundo. I had the opportunity to be involved in some very interesting deals as many advertisers, as well as other entertainment and news outlets, wanted access to our audience. We did joint ventures with Reuters, CNN, MTV, and others. The network was eventually acquired by NBC.

Can you make any comments about how social media intersects with entertainment media and intellectual property with regard to Red Lobster?

Big brands must carefully manage their social media presence. Red Lobster is no exception. Social media is a large part of our brand voice and a big part of how we stay connected and relevant to our guests. And, we're always looking for meaningful ways to engage. For example, during Lobsterfest, we invite guests to share their "Lobsterworthy" moments by posting to social media using #lobsterworthy, allowing us to engage with them in their experience. Red Lobster has a number of celebrity fans who from time to time share their love of the brand on social channels that get a lot of attention from our guests. Sometimes this happens organically, without our prior knowledge or engagement, and sometimes we negotiate opportunities that highlight their passion for the brand.

Please tell us about your work on the Board of the nonprofit organization Hands on Orlando and the community work of Red Lobster.

One of Red Lobster's core values is "Genuine Caring," and we live that value every day in our office and in our restaurants. Red Lobster has a variety of programs to give back to the communities in which we live and work. Red Lobster Shares, a program to help feed the hungry, has been in place for 12 years. All Red Lobster restaurants across North America package and freeze surplus, wholesome food that wasn't served and share it with local food banks and other agencies in the communities where we operate. Since the program started, Red Lobster has donated more than 24 million pounds of food to community food banks and other organizations across the country. Personally, I spent more than 10 years as Chairman of the Board of Hands on Orlando, a nonprofit that plans, manages, and leads volunteer projects in the Central Florida area. Hands on Orlando has helped more than 300 community organizations supported by more than 190,000 volunteers and has managed over 5,000 projects. Red Lobster also supports various other charities such as the Boys & Girls Clubs of Central Florida and Heart of Florida United Way.

What would you say is the best piece of advice that you received relative to your legal career?

I received some of my best advice early on, before I had even started my career. A mentor in grad school encouraged me to share my passion. I wrote a thesis on the way U.S. trade policy was affecting developing nations. It was very dry and analytical, because that is what I thought was necessary in an academic setting. My advisor, who knew my passion around the subject, convinced me that my work would be much more interesting and persuasive if I let my passion show through. He was one of the first people to give me permission to be my authentic self even in intimidating environments. That has helped me throughout my career by leading me to assignments that everyone knew I would care about and do well because of my passion for the subject.

What piece of advice would you give to an IP attorney who's trying to climb the corporate ladder to ascend to general counsel?

The best advice I can give an IP attorney early in the in-house career is to be endlessly curious about the business. Your ability to advance is closely tied to your ability to help the business succeed by identifying both opportunities and risks. Use your expertise to help the business capitalize on opportunities and avoid risk. And in-house experience offers wonderful opportunities to explore outside of your general area of expertise. Generally, if you can find ways to help people succeed in their jobs, they will be more than willing to share their challenges and opportunities with you.