

The Evolution of IP

An Interview with Ed Haug, Chairman, Haug Partners

EDITORS' NOTE Ed Haug was a founding member of Haug Partners in 1997 and is now the firm's Chairman. With offices in New York City, Boston and Washington, D.C., intellectual property, antitrust, FDA and commercial litigation are among Haug Partners' many practice areas. Haug has extensive experience in bench and jury trials, having appeared before numerous district and appellate courts across the U.S., the U.S. Court of Appeals for the Federal Circuit, and the U.S. Supreme Court. His experience extends beyond the U.S., having participated in cases before the United Kingdom High Court, German Federal Supreme Court and Tokyo High Court. He served as President of the Federal Circuit Bar Association and is a frequent lecturer on varied legal issues. Haug was a Ford Merit Scholar at Notre Dame, graduating in 1974 with a B.S. in chemical engineering. He graduated from St. John's Law School in 1978, and studied law in Exeter, England.



Ed Haug

FIRM BRIEF Haug Partners (haugpartners.com) provides integrated, multi-disciplinary legal services for life science and technology businesses. Its goal is to deploy the firm's diverse resources, technical expertise, legal acumen and business judgment to deliver optimal outcomes for clients.

Will you discuss how the practice of Intellectual Property law has evolved?

For more than the past three decades, it has been the "Golden Age" for IP. Thirty years ago, IP law was mostly practiced by lawyers with engineering or science backgrounds who helped inventors obtain patents – kind of a green-eyeshade business. The vast changes in technology over those years, and the speed at which these changes has taken place, have completely altered how IP is viewed. Now, for example, cybersecurity is a major priority for virtually every business bigger than a hotdog stand. Protecting and preserving intellectual property from just China alone is an enormous undertaking, and there are other countries threatening IP besides the Chinese.

I'm convinced this is a challenge that is going to get greater and greater in the years ahead. Take, for example, the rapid evolution of 5G technology – the fifth generation of wireless networks. The countries that control access to 5G are going to have enormous power and influence. We already see that Beijing is determined to make its companies a dominant force. One Chinese company alone, Huawei, may have already filed more patents in this field than the rest of the world combined. We know that the poaching of American patents by all kinds of foreign actors will be a constant battle. That's going to generate thousands of lawsuits worldwide, and many will be a game-changer for the people involved.

What are the key areas that Haug Partners is focused on for the future?

We've made life sciences one of our specialties because of the enormous breakthroughs that are revolutionizing pharmaceuticals and medical treatments, medical devices, prosthetics and all of the many ways that human afflictions are treated. In gene therapy alone the discoveries are incredibly sophisticated and will get more so over time. Protecting those breakthroughs and discoveries is a very complex legal and ethical challenge. For example, in the U.S., the courts and Congress are struggling with what is considered to be patentable subject matter for patenting genes in the field of medical diagnostics. Advances in the life sciences have forced us to rethink these issues.

Will these issues continue to intensify?

It will get even more intense as literally thousands of newly patented processes and products start competing with one another. That frequently gets very contentious and expensive, so sometimes the marketplace or a government agency that's authorized to set standards will try to settle the matter. One classic case going back a few years was the VHS videotaping system versus Sony's Betamax. Sony thought that Betamax's superior video quality would win the war, but Panasonic bet correctly that consumers would prefer VHS' lower price, so Sony lost out. That kind of drama is going to play out again in the years ahead as, for example, hardware and software technologies evolve and create whole new arenas of competition.

How do you define the Haug Partners advantage?

Most of our firm is focused on IP issues, to protecting and maximizing the hard-won value of our clients' intellectual property. We specialize in patent, trademark and copyright law, anti-counterfeiting and anti-piracy measures, online and social media infringement, domain-name disputes, unfair competition and every other kind of IP problem.

One advantage is the breadth of our lawyers' backgrounds, and how we integrate those talents to meet the needs of our clients. Many have scientific and technological training, but our diversity and inclusiveness give us strengths in such a variety of areas that there are few if any challenges we aren't ready to meet. That is exactly what you need in a world where IP problems can crop up seemingly overnight, not just in technology or life sciences, but any field where intellectual property is involved. That is almost everyone.

Another part of our unique advantage is the experience we bring to the IP field. I personally have been engaged in some of the biggest intellectual property cases that have played out over the last two decades – cases here in the U.S., in Asia and in Europe. The same holds true for many of my colleagues. That's really paid off, because when we launched 22 years ago there were several patent law firms in New York. Now we may be the largest IP firm in the city.

What advice do you give to young lawyers joining the firm?

One lesson we teach is that not every dispute has to go to court. We try to help clients by resolving their issues not only through litigation, but also through negotiation or mediation. When it's appropriate, however, we're always ready to litigate complex, high-stakes cases that are strategically important to our clients.

The other thing we tell young lawyers is to get out of the office as much as you can, go meet people, see and experience the global arena and become as well-rounded as you can be. You should go to courthouses, bar association meetings, and conferences. You should learn from the people you meet and develop contacts and networks. I've done that throughout my career, and it has been a very meaningful and rewarding growth experience. ●