

# The Legal Stars Series

*By Jay H. Begler, Esq., Nixon Peabody*

In the world of law firms, there are All-Stars and then...there are the bigger, grander All-Stars! Jay Begler, Esq, formerly with Buchanan Ingersoll & Rooney and currently a partner with the world-class firm of Nixon Peabody, has established himself as an icon in the patent and trademark fields. While working with the behemoths like Time Warner, The Gallup Poll and top fashion designers, Jay stands out as one of the most sought-after attorneys in his field. You have to ask yourself what it takes to operate at these levels and what skills were combined to achieve this great task? We spoke to Jay and he was kind enough to disclose this historical process and his thoughts related to becoming a top business development legal professional.

## *Interview Questions*

1. Where did you begin your career?

I began working for a firm in New York City named Brumbaugh Free Graves & Donahue which was a premier patent and trademark firm. I actually had a job after my first year of law school as a replacement file clerk. The second year I went back to do legal research and then was offered a full-time job.

2. Did you intend to go into patent law?

No, but I thought trademark and copyrights were so interesting and offers were hard to come by. That's how I got started. The most important things happened by accident. The only reason I got that job as a file clerk was I was walking door-to-door because you couldn't get a summer job—particularly if you were a first-year. I was walking past a building which I remember because it was across the street from the NY Public Library. A man was walking in the building and I asked him, "Do you know if there any employment agencies?" He said, "Yes, I am going up to one. So why don't you come with me?" I went up and they said, "We have a substitute file clerk's job." My whole career has been based upon an accident.

3. What was your first attempt at bringing in your own business?

In 1984, I was the Director of Trademarks for Revlon in-house and I met someone who had a small law firm doing trademark and copyright work. That individual gave me a very attractive offer to come into the practice. Usually you go from outside counsel to in-house. That was rare at that time to go from corporate to a law firm particularly as a 50% partner into the firm. The firm had small clients but the potential for development was better.

4. How did you get over to Revlon?

I was Associate Trademark Director for Squibb. My paralegal saw an ad in the paper and told me to look into this job. It had been open for a long period of time. They were paying what was big bucks at the time which is less than paralegals make at this time. I went over and one thing led to another. Revlon was a key move. It was a wonderful experience on many, many levels and was the most significant launch-pad for my career which was key. It gave me managerial knowledge.

It gave me an understanding of how it works from the inside. That is, you gain a perspective of what in-house counsel wants from outside counsel. It is valuable to have that kind of experience. It enabled me to meet a lot of people not only in the United States but throughout the world. The French connection was due to becoming close friends with the head of the firm and going out on my own. I felt that being able to handle Revlon would enable me to handle other large corporate issues.

5. Did you retain the Revlon account after you left?

I had no idea if Revlon would give me any business whatsoever. There were enough clients so the firm could sustain me but actually Revlon sent me an awful lot of work. Most people don't know this but Revlon had a billion dollar healthcare business which was very profitable but has been sold off.

In any event I had no clients when I told people I was leaving. One of the first people to say they would use me as their attorney was a French law firm which was the largest trademark firm in Paris, France called Cabinet Weinstein. So I started doing work for them almost immediately. I still represent them. Pretty good run.

6. Did you receive any help or mentoring when you began establishing a book of business?

I would say there was a gentleman who was a great attorney named Gerald Griffin, who was with a firm called Cooper Dunham Griffin & Moran. When I was at Revlon that was the firm I entrusted the trademark work to and a great deal of contact with Gerry Griffin. Essentially without formal mentoring, we formed a relationship and I gained a lot of understanding from the way he dealt with clients and the right way to deal with clients and interact with them. I learned a lot from Gerry until he died. We were very, very close. I got to observe and understand from a great, great lawyer but also as interacting with clients.

7. Explain what motivated you to establish your own firm. Was it always your intention to do so?

I had been involved with a lot of litigation on the in-house side [with Revlon] and actually really wanted to do the litigation.. The offers were good and the financial guarantees were good so I decided to jump in and try it.

8. Describe your business base when your firm was first established.

I had no business base. The Revlon work came in. Lots of business came from attorneys I had worked with at Revlon. I had good relationships with individuals from Revlon. I stayed in touch with the individuals from Revlon and they left as well to other businesses and work came from different places. It was a good relationship. Things worked out.

9. Explain how several high-profile accounts were added. Did you initially get all of the corporate accounts or was the business added gradually?

There was a law firm in New York, a general firm, that someone asked me to speak to a partner on and off just collegially. This went on for a period of time. There was no consistent pattern. We tried to make personal contacts with certain accounts trying to develop those accounts over time. The trademark person from Warner Communications before the merger approached me--not to get the work but just a conversation and over a period of time we had more and more conversations.. There was an issue with a major filing program and we presented a way of doing it. We continued to do the work for Warner Communications and they became Time Warner. Some of this is crazy because you make presentations. For example, in the Revlon one there was a lawyer there that was Associate General Counsel and about a year after I left, Revlon was in a huge fight over control and eventually the lawyers went to other places. One of the lawyers went to a company called Scoreboard, a leading memorabilia company. So then we started doing a lot of litigation of autograph forgeries. So it comes in crazy ways.

There was a time when I was doing a trademark infringement case for Nikon and I was preparing an expert witness who was a professor of law—I don't recall the law school he was at. We just started talking and he said, "I have someone who approached me and I can't reveal who it is but they would like some information generally about a protection trademark. You can't write to them though, you have to write to me. So I said, "Fine, I'll do it." And ultimately we got that company as a client and it was The Gallup Poll.

Most of the clients in the beginning were not big, they were small. But we had a lot of small clients. The small clients grew into more substantial clients—especially fashion designers. Jill Stuart is a Nixon Peabody client and now is a large designer. It is gradual. It takes time to build a book of business.

Some people are great lawyers but not effective at developing a client base.

10. Who was the primary contact for this book of business?

I was the contact.

11. What efforts did your firm use to attract further business?

I did the normal thing—serve on committees. Trademark Recorder, Director for USTA, etc. gave a lot of talks for PLI. The usual brochures. I did all the things to build a client base. At the end of the day, 99% of my clients came from referrals from other clients. It is always a cumulative approach. The more clients you have, the more clients you get

because it is your largest source of referral network. They talk to other people and you get phone calls. Some of the work is gone because work goes in-house and anything can happen.

12. How long did it take before you thought you were confident and qualified to ask for corporate business?

There were times when you get so busy and it's difficult to keep up. You need to prioritize what gets done and when. It becomes very important to maintain the clients you have as well as get new clients. If you can't get something done within the timeframe the client expects, you have to tell them up front so they can choose to take it somewhere else. Now with big firms, you have someone to back you up. Back then, our firm was small.

I had a situation in the early 90's when I had 2 major trials come together at the same time. You have to get other people in the firm to do the work. If it is not an emergency, clients understand. It is rare that I say to a client that it is urgent I speak to you now. That's the advantage of a big firm so you can have back-up.

13. In your opinion, if you had to give advice to new partners or mid-levels on developing business, what would be the top three (3) issues associated to succeeding at business development?

- The most important thing is that you have to perfect your craft and be excellent at what you do. Part of that is being current on the law and knowing what changes there are.
- You have to be patient in that getting clients takes time and a great deal of investment of your time. There is a lot of competition.
- To gain an in-depth understanding of what the client needs as a lawyer or law firm. It is very, very important. You can't go in and say, "I'm great", because every law firm does that. It takes a lot of homework and understanding of what the client is all about. For example, someone will ask me about ABC Company, so I have to familiarize myself with their trademark portfolio and the trademarks they own and the cases they are involved in—as much information as I can before going in before the initial contact. Because you specialize, they expect you to be knowledgeable in these areas. You hold yourself out to be knowledgeable in these areas.

14. Was there ever a point where a client would call you due to your expertise? Did it occur with regularity at some point?

Yes, because you specialize they call you because you hold yourself out as knowledgeable in certain areas.

15. What mistakes did you make in business development over your career or methods that did not work for you over a period of time?

One mistake was spending an enormous amount of time and investing a large amount of time over a year or two on a potential client. We got down to the short list and we weren't selected. It was time I could have been developing other clients. In retrospect, I put in way too much time on that. Every time you make a pitch you won't get the client. Part of that is chemistry or other factors. You never know sometimes and you never know why a client doesn't choose you.

16. Marketing 15 years ago was not necessarily accepted in the legal market, what types of initiatives would you do to attract clients?

It's different now being in a large firm environment tremendous back-up capabilities from the marketing staff. At the end of the day in terms of the clients that I still attract and which are more the small or mid-size companies, is the personal interaction between you and the client and approaching them in a sensible way—a way that would make you attractive to them. Part of it is when you visit with a client, you just try to make that personal connection. I don't know if I would do anything much differently. The interrelationship and personal touch is the way to do it. You have to be persistent.

You need to communicate to the client that you are not reactive but proactive—that you want to handle each one as a client. You want us to do A but did you think about B, C, D, and E? You want to understand what their trademark portfolio is and where they want to go in terms of marketing. The great thing now is that you have the web and you can do an awful lot of research on the web very quickly. It's a tremendous, tremendous help.

17. What guidelines would you set to determine whether or not you would accept certain business?

- The first guideline would be whether there would be a conflict of interest.
- There might be certain kinds of clients who you wouldn't want to represent--counterfeiters, knock-off artists and things like that.
- There may be situations where they may want to take a legal position that would be a detriment to your other clients.

As far as I am too concerned, there is no client that is too small to represent. They can be a source of additional business and they can grow. The two fashion designers are an example and now major designers throughout the world. You just never know.

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