

# How David C. Hilliard Got the Jacksonville Jaguars to Change Their Logo

The intellectual property lawyer at Pattishall, McAuliffe, Newbury, Hilliard & Geraldson is not afraid to litigate

photography by COREY HENGEN

**How did your parents react to the news that you were going to law school?**

They were delighted. They thought, on the other hand, that going to Chicago probably was a sign that I was leaving civilization.

**Where was civilization?**

We lived in Boston, in the suburbs. It was a peaceful, small-town atmosphere.

**And after landing your J.D. at the University of Chicago Law School, there was a stint in the Navy?**

Yes, I was judge advocate for Adm. [John S.] McCain, the father of the [presidential] candidate. Probably the most interesting thing about my JAG experience was that Adm. McCain had been assigned to form a large “assault” on the Spanish coast—with the permission of the Spanish, of course—so he’d gathered hundreds of ships pursuant to this and “invaded” the Spanish coast. It was the biggest invasion since D-Day. It was to test the troops. ... I was the U.S. representative for claims. The Spanish had hosted the U.S. in doing this [invasion], so we wanted to be civil and pay for things that were damaged. One enterprising farmer claimed that one of our shells had landed on his pile of fertilizer, which had caught fire. The size of the fire was [supposedly] such that the smell would have covered Spain and parts of Portugal, so we knew he was making it up. When I got out of the Navy, I came back to Chicago and took up practice with this firm [in 1966]—and I’ve been here ever since.

**Intellectual property law must have been very different back then.**

No computers. There also wasn’t much advertising law, though advertising law became a much bigger aspect of it as time went by. In about 1980, we commenced to represent Ford Motor Co., and I’ve been Ford Motor Co.’s IP lawyer for 30 years. Ford had a great problem. There was a period with Ford when I had a slogan: “Always sued; never sue.” They’d let all kinds of problems go, and so they had all sorts of misuses of their trademarks, automobile names and everything else; and in particular they had a multibillion-dollar-a-year counterfeiting problem of goods coming in from abroad by ship with Ford’s [counterfeited] trademarks. So we began a campaign with 50 lawsuits. I was on airplanes flying all the time.

**How did those cases come out?**

Well, we got ’em all. You can’t get away with that kind of thing.

**And Ford has kept you busy with IP issues over the years?**

They’ve had all kinds of problems. People were counterfeiting the packaging of parts. [Once] we sued the Jacksonville Jaguars because the hood ornaments and jacket ornaments that the Jacksonville Jaguars were using looked just like the jaguar on the front of the Jaguar motor car [owned by Ford]. We sought the identity of the artist, who reportedly was up in Seattle. We went up to Seattle and asked him where he got the design, and he said he got it out of the phone book. We said, “Well, where in the phone book?” and he said, “The Yellow Pages.” We said, “Well, where in the Yellow Pages?” It was the automobile ads ... the Jaguar automobile ad. So that pretty much did it. The other thing that’s interesting is that NFL Properties, which markets all of these products on behalf of the football teams, had licensed somebody to make an automobile called the Jaguar. As we came out of the deposition, by gum, there was the automobile, sitting there—looking like a Model T, mind you—but with the word “Jaguar” across the front. They kept the team name but changed the [logo] design. They had to stop making the car.

**What is the biggest change in the IP arena since those early days?**

The Internet really has revolutionized what’s going on. When this all began, people would think that they could steal someone’s identity, that they could steal their persona and do with it whatever they wanted. A great deal of litigation went into squaring this away, getting people to realize that we’re still law-abiding citizens even though it’s called cyberspace. And if you don’t, you’re going to find yourself sued and with lots of troubles.

**What were some issues in the early days of the Internet?**

What people would do was choose a [domain] name like Sporty, and there would be a company that sells sporting goods called Sporty’s. The people would explain to the court that the reason they used [“Sporty”] for selling sporting items online was because they had a dog called Sporty. Judges would say, “That’s very amusing, but we’re not buying it.”

**What’s the next big issue in IP law?**

Social media marketing. What’s involved there is an enormous amount of communication between, particularly, young people. Companies are getting involved in that so they can communicate



with this customer base. The movie industry, the museums, you name it. There are problems of deception. You have to make sure, when you're coming into this as a company trying to be involved in social media marketing, that you do it in a way that is straightforward and honest and does not step on anybody's toes.

#### **What drew you to law in the first place?**

I had an uncle who was a psychiatrist; he had been head of all the psychiatric hospitals in Massachusetts, but he got fired—Massachusetts is very political—by Gov. [James Michael] Curley. So he'd gone down to St. Elizabeths Hospital in Washington [D.C.]. That's where Ezra Pound, the poet, was incarcerated. Ezra Pound had served the Axis cause during WWII and people wanted to hang him. But he was a great poet and a little crazy, so my uncle put him in there and kind of protected him so he wouldn't be done in. I saw all that and I would visit him, and it was such another world that I decided I would be a psychiatrist. But when I got into college, I realized, well, that's not really what I want to do, and I decided to go into law.

#### **What do they think of you at work?**

I've often said that all of these trial cases are like the Battle of Salamanca, which was Wellington's greatest victory in 1812. It

started at 3:30 in the afternoon and ended by evening, and he had won the battle. It was his greatest battle. He did it by attention to detail, preparation, and he was alert to opportunities. If you just add civility and courtesy, you've got exactly what it takes for a trial lawyer today. They joke with me a lot here because I'm always carrying the book [on Salamanca] around, trying to explain to them that that's the way they're supposed to do it.

#### **Any other advice for young attorneys?**

At the first level, I advise them to go to law school. There are those who think the profession is overcrowded and they shouldn't go, but I don't agree with that. To me, the profession is not that overcrowded and people are retiring as fast as they're coming in, more or less. And it's an open door to so many things. Many lawyers practice for a little while and then go into corporations and become CEOs, or go into work for public-interest firms. So there's all this in front of you by the time you get through the education, because law school really teaches you less about law than it does how to think like a lawyer.

#### **Of all your awards, is one especially meaningful?**

I was given the Maurice Weigle Award for the most outstanding service to the legal profession in 1971.

#### **And that had a lot to do with your involvement in the Chicago bar?**

Yes. In another six months we're going to celebrate the 40th anniversary of the Chicago Bar Association's Young Lawyers Section. I was the founding chair of that, and it now has 9,000 young lawyers, 26 committees and 50 public-service projects. Now, after 40 years, most lawyers practicing in Chicago have been members of that Young Lawyers Section. I think it's a simple truth that the people you meet there will prove to be among the greatest and richest rewards of your legal career. They try to help the city be a better city.

#### **What makes the Young Lawyers group so successful?**

The secret is you have all these [young] lawyers in law firms with this pent-up energy, but they're being told, "Look, you've got to work on the client's work here today," and what they really needed was a way to get out of the office and go someplace where their ideas could lead to projects they maybe wanted to do in law school but weren't able to do. Tennessee Williams had a great quote: "Caged birds accept each other, but flight is what they long for." He was talking about marriage, by the way, but that's exactly what happens in this situation.

#### **Speaking of marriage, how did you meet your wife?**

Celia and I have been married for 39 years. We were introduced by the fourth head of the Young Lawyers Section, Tom Howell. As I say, the friends you make there will last a lifetime. ◀

—Interview conducted and edited by Beth Taylor