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MOTION for the Active Attorney (Winter 2012)

Patents Pending

Precedent-setting IP cases are his trademark

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MOTION

WINTER 2012

For The Active Attorney



**RAREFIED
AIR**

**'TUSKEGEE'
IS A TALE
WORTH TELLING**

**TRIPLE
PLAY**

**TRIO MAKES
MOST OF
DETROIT
'PROJECT'**

MARTIAL LAW
LAWYERS FIND POWER SURGE

ERIKA RIGGS, JULIANNA RIVERA
AND AISA VILLAROSA BERG

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A prominent IP attorney, R. Terrance Rader has provided counsel to some of entertainment's biggest stars during his distinguished legal career.

Photo by Robert Chase

PATENTS PENDING

Precedent-setting IP cases are his trademarks

BY LYNN MONSON

If you want to hear a good tale in the genre of improbable life stories, spend some time with Detroit attorney R. Terrance Rader as he describes his journey from the family dairy farm in Pennsylvania to his current status as one of the most successful intellectual property attorneys in the country.

For the last 25 years or so he has focused on complex patent cases, often earning – or preventing – multi-million-dollar judgments for clients and

companies of all sizes in courts from coast to coast. Earlier in his career he did trademark- and copyright-related work for some of the most iconic names

in popular American culture – The Four Tops, Aretha Franklin, the rock group Kiss, music legend Neil Young, Hollywood actress Farrah Fawcett, and the family of Elvis Presley.

Along the way, this farm kid whose family couldn't afford to send him to college had stops at Virginia Tech for an engineering degree; at Goodyear Tire and Rubber Co. where he became fascinated with patents; at the U.S. Patent and Trademark Office in Washington, D.C., where he granted 1,800 patents; at American

University for a law degree; at the Detroit law firm of Cullen, Sloman and Cantor; and today at his own intellectual property law firm of Fishman, Rader and Grauer in Bloomfield Hills.

Rader was just named “Detroit Area Intellectual Property Lawyer of the Year for 2011” by the peer-reviewed publication “Best Lawyers.”

Although his firm works in the broad area of patents, trademarks, copyrights and trade secrets, he says patent cases have always been what he enjoys most.

“I just love technology,” says Rader, known as Terry to his colleagues, friends and family.

He inherited his mechanical aptitude and work ethic from his father, grandfather and great-grandfather, all of whom were still together on the family farm when he was a boy. That dairy operation, near the small town of Atlantic in western Pennsylvania, required milking 50 cows twice a day, every day.

“Everything I had involvement with on the farm, you were either fixing something mechanical or you were driving something or you were replacing something or basically providing a lot of maintenance,” Rader says. “So from all that contact I developed a really keen interest in (how things) worked and why they worked and how do you maintain them ... and things that might replace them ... a better mousetrap, so to speak.”

His time at Virginia Tech in the late 1960s included two years in a work-study program at Goodyear. Rader assisted researchers looking at which tread designs and chemical formulations of rubber yielded the best wear, durability, friction, and traction in different weather conditions.

“As a result, I got to see a lot of patents that Goodyear had obtained in some of these areas. Some were for tread design, others were for chemical compositions. I also learned that not everything is patented. Sometimes it is better to keep things as a trade secret rather than

“I did a huge amount of patent applications that involved very complex electrical circuits. I remember one that Xerox had filed. The application itself was so large, it stood about ... three feet. And the clerks, in order to bring it into my office, always had to put it on a cart because it weighed so much.”

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disclose it to the public and allow your competitors to learn about it.”

By the time Rader started work at the U.S. Patent Office after college graduation in 1970, the personal computer revolution was under way. He attended American University law school at night and during the day became the go-to patent examiner for the then-new technology of high-speed printers – think daisy wheel and dot-matrix – that was being developed by prominent multi-national companies.

“I did a huge amount of patent

seven years, working his way up to supervisor of primary examiners with the authority to directly issue patents himself. Armed with a law degree and wanting to move beyond the patent application bureaucracy that he had mastered, he began looking for a law firm that would allow him to quickly move into patent litigation.

Through connections in Detroit, in 1977 he joined Cullen, Sloman and Cantor.

Instead of doing only patent work for big-name corporations, however, Rader soon found himself doing other types of legal work for big-name celebrities. Work for one led to work for another and so on for several years. Legendary Motown recording artists The Four Tops came to his offices several times to discuss their trademark and copyright assets.

“They had reached a point in their career ... where they were older, so they were more concerned about how they might be able to maximize the estate value of their intellectual property. It was more giving them advice more as you would do as an estate planner than any kind of enforcement action or anything like that.”

His work with Kiss and Farrah Fawcett involved protecting their images, literally. The rock band’s manager asked Rader how to capitalize on the band members’ distinctive face paintings for merchandising purposes. Rader, using his contacts in the Patent Office, pursued a relatively new idea of registering the faces as a trademark. At the time, only one other image – Ronald McDonald – had ever been registered in that way, Rader said. His idea was approved by the Patent

Office and Kiss went on to stardom, its images protected by Rader’s legal work. Rader’s work for Fawcett, whom he never had the pleasure of meeting, involved pursuing a company in Canada that had illegally reproduced her famous swimsuit poster, the pinup shot that became a staple in man caves everywhere.

Aretha Franklin was a secondary party
(continued on Page 20)



The pinup of Farrah Fawcett and the images of Kiss are in the case files of R. Terrance Rader.

applications that involved very complex electrical circuits,” he said. “I remember one that Xerox had filed. The application itself with the drawings was so large, it stood about ... three feet. And the clerks, in order to bring it into my office, always had to put it on a cart because it weighed so much.”

A Patent Office program helped Rader pay for law school and he stayed for

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to a lawsuit where a songwriter on her "Freeway of Love" album was sued for copyright infringement. Rader met the Queen of Soul briefly and succeeded in getting the case dismissed.

When Neil Young sought legal advice, Rader hoped to talk music with the legendary rocker who, along with Crosby, Stills and Nash, helped define Rader's coming-of-age era. But Rader said Young was all business as he sought help over trademark infringement and other issues relating to the Lionel model train company he owned. Rader's connection with Elvis Presley came after the singer's death, when the attorney, in a precedent-setting case, helped his family obtain the rights to an "In Memory" poster that a company had created.

Rader graciously answers questions about his "celebrity period" from the late 1970s to the mid-'80s, but his patent infringement work is clearly more important to him. He has been involved in 400 federal lawsuits involving intellectual property and has tried at least 75 cases, many involving the auto industry. As both a plaintiff and

"I love the profession as much or more than I did when I first started. I don't have any plans to retire. For me, it will be expiration rather than retirement."

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defendant counsel, he has obtained or prevented verdicts or settlements involving a cumulative total in the hundreds of millions of dollars.

Fishman, Rader and Grauer, which opened in 1996, has expanded beyond Bloomfield Hills to include offices in Washington, D.C., Orange County, Calif., Silicon Valley, Calif., and Tokyo, the latter a reflection of the growing international nature of technology inventing and manufacturing.

Rader's interests these days include technology related to power management and compactness for digital devices such as smart phones, PCs, and tablets. Such complex and rapidly changing technology seems worlds apart from Rader's work in the early days when he was studying electric circuits for what are now viewed as primitive printers. But not really, he says; once an inventor, always an inventor.

"As a patent attorney, you are inventing, but you are not putting your name on the patent application, obviously. But you are taking the idea that may be pretty sketchy in many instances, from the discloser, and you are doing the things that you believe necessary to make sure the invention is presented and disclosed in a way that is legally sufficient, that meets the requirements for disclosure. . . . The reason that you work in this profession is that you love technology and you love inventions."

That hasn't changed at all since those days he left the family farm to pursue an engineering degree, or later when he was pulling down \$10,800 a year in his first job at the Patent Office. Although he and his wife Rebecca now spend more time traveling to see their two daughters in Atlanta and their grandchildren - twins, a boy and a girl - Rader says he's still learning every day.

"I love the profession as much or more now than I did when I first started," he said. "I don't have any plans to retire. For me, it will be expiration rather than retirement." **M**