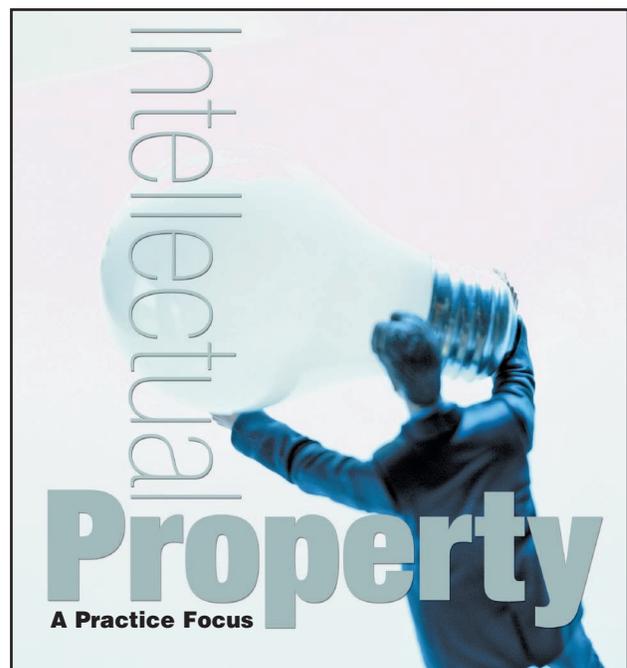


Identifying **10** Leading Copyright and Trademark Attorneys

Copyright and trademark law—some call them the softer side of intellectual property. Or wait! Does that infringe the Sears trademark? These 10 lawyers could answer that one in their sleep. (Answer: No. One-time use. Confusion highly unlikely.)

Theirs is an increasingly sophisticated practice area. Where copyright owners once fretted about photocopying, users now can make an infinite number of perfect digital copies. Trademark wars have also moved to cyberspace, where misspelling a domain name might lead children to hard-core porn.

Yet practitioners say their work is more interesting than ever, with issues of first impression



popping up everywhere. The big question remains the same: “If you can’t protect your IP, what do you own?”

Leading LAWYERS

Ten of the D.C. Area's Top Copyright and Trademark Attorneys

Thomas Olson

Wilmer Cutler Pickering Hale and Dorr LLP

Complex new technologies. Minimal precedents. Difficult expert witnesses. When the going gets tough, Thomas Olson shines.

"He's almost unflappable," says Benjamin Ivins, senior associate general counsel for the National Association of Broadcasters, who also praises Olson's "tenacity and painstaking attention to detail."

A partner at Wilmer Cutler Pickering Hale and Dorr, Olson represented NAB, the broadcast networks, and their affiliates in a long-running and successful copyright fight against EchoStar Corp. The cherry on top came last year when the defendant agreed to pay \$5.2 million in attorney fees, the largest fee award ever in a copyright case. The victory was "enormously gratifying," says Olson, 55, who specializes in intellectual property litigation.

The case looked at satellite carriers' offering of network television. Under the Satellite Home Viewer Act, "unserved" households—those in areas too remote to receive a strong signal from a local network affiliate—are eligible to receive programming via satellite from a distant network affiliate. The conflict arose when EchoStar allegedly began offering distant network service to "massive numbers of people in the middle of cities, which was totally illegal in our view," says Olson.

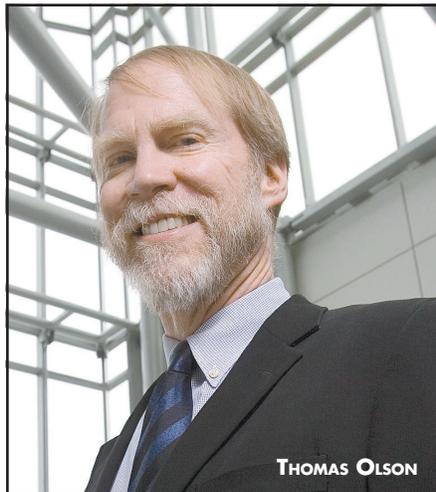
For local network affiliates, this was a direct threat. "Individual stations sell ads, so they need viewers to watch the local stations," Olson explains.

In 2006, the U.S. Court of Appeals for the 11th Circuit found that EchoStar infringed the networks' exclusive right under the Copyright Act to control the retransmission of their programs. In a stinging rebuke, the three-judge panel wrote that EchoStar violated the act "in every way imaginable."

Ivins, the NAB lawyer, credits the win to Olson, noting that he can turn "complicated and often very technical information" into "plain, understandable concepts for a judge."

Ivins adds, "Another one of his strengths is cross-examining expert witnesses and not being buffaloed by them. He can meet them on their own technical ground and ferret out inconsistencies and errors in methodology as well or better than anyone I've ever seen."

Olson also does legislative work for NAB related to the Satellite Home Viewer Act. The statute was revised by Congress in 1994, 1999, and 2004. "Like the cicadas, every five years it has to be attended to," says Olson. It's up for revision again in 2009.



Another satisfied client is commercial real estate information company CoStarGroup Inc. "IP is the lifeblood of our company," says general counsel Jon Coleman. "Tom has been instrumental in helping us build our portfolio of IP rights and protect them. He's taken the time to understand our business and our business objectives."

Based in Bethesda, Md., the company "is not afraid to litigate," says Coleman, and Olson "has been instrumental in a couple of big victories." Olson is currently representing the company in New York federal court on a false-advertising claim and in California state court in IP litigation.

More often though, clients want to avoid the courtroom. Olson recently headed off a copyright suit against a major retailer, which prefers not to be identified. "I persuaded a would-be plaintiff to go away by pointing out that the plaintiff's supposedly copyrighted design can also be found engraved into the floor of a 13th century French cathedral," he says.

It's not copyright all the time for Olson. In 2004, he persuaded the 8th Circuit to uphold an injunction barring an anti-abortion protester from using domain names incorporating Washington Post, Coca Cola, McDonald's, and Pepsi trademarks. The defendant, William Purdy, used domain names such as my-Washingtonpost.com and drinkcoke.org to lead the unwitting to his very graphic Web sites.

One of Olson's longest-running clients is the Educational Testing Service.

As a junior associate, he worked on a copyright case against The Princeton Review Inc. ETS sued the coaching service for infringing the copyright on questions from its Scholastic Aptitude Test.

Twenty years later, Olson still represents the company as well as the College Board, which now owns and administers the SAT. Glenn Schroeder, ETS general counsel, says Olson "knows the Copyright Act backwards and forwards. But he can come back and relate that to [ETS's] practical needs."

Schroeder adds, "I don't need a 50-page memo. I need an answer when my client is knocking on my door wanting to know, 'Can I do this or not?'"

Olson earned his law degree from Harvard Law School in 1982. Prior to joining the firm then called Wilmer, Cutler & Pickering, he clerked for Judge Walter Mansfield on the 2nd Circuit. He then spent a year as a staff lawyer for the Senate intellectual property subcommittee, where his boss was Ralph Oman (who went on to become registrar of copyrights).

"It was a fantastic introduction to copyright, patent, and trademark law," says Olson. "I can't imagine a more fun area to practice in. Every case is different, every day is different, and every year changing technology requires courts to resolve new IP issues."