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Q&A With Gray Plant Mooty's Gaylen Knack

Law360, New York (November 03, 2009) -- Gaylen L. Knack is a principal at Gray Plant Mooty and a leader in the international trade practice. He assists franchisors in structuring domestic and international franchise and distribution programs, and advises clients on related business and regulatory issues. He also advises clients on international trade regulation, trademark, Internet, and corporate law matters.

He has authored several articles on such varied franchise- and distribution-related topics as the use of franchisee referral networks, encroachment and franchise site location, regulation of distribution systems in the European Union, U.S. and foreign counterterrorism legislation, and franchise advertising funds. Knack is a frequent lecturer, both locally and nationally.

Q: What attracted you to your practice area?

A: I always have been intrigued by international affairs and business, although the opportunity to pursue it in my legal career did not arise immediately. In law school, I participated in a study-abroad business and law program in Lyon, France. Once I completed law school, however, I realized that jobs in international law were few and far between. With an interest in corporate and securities law, I focused on that area for the first few years following law school until an opportunity arose to join a firm with a focus on franchising.

At the time (1987), I knew very little concerning the franchise area but was intrigued by legal specialty that was framed by a way of conducting business versus one defined by the legal profession such as litigation or tax law practices. In 1991, I was offered the opportunity to co-chair an established franchise practice at Gray Plant Mooty and work with established clients who (at the time) were in the initial stages of international expansion. That opportunity allowed me to develop a business-oriented legal practice with an international flavor.

Q: What is the most challenging case you've worked on, and why?

A: As a business lawyer, I more appropriately view this question as my most challenging transaction. While the most challenging matters have involved negotiating the renewal of franchise agreements, my most challenging international transaction remains the negotiation of a master franchise agreement between a U.S. franchisor and a large Japanese franchise company.

At the time, I had left private practice for a short time and served as a vice president and general counsel for the U.S. franchisor. The franchisor had previously pursued several international projects, each of which ended in failure. As a result, the chairman held little interest for another potential disaster.

Several of us on the executive team were able to persuade the chairman to negotiate an agreement with the far larger and more experienced Japanese entity. The lead attorney for the Japanese company was a well-known U.S. franchise attorney who generally represented only franchisors. Using several arguments he often used while representing franchisors, we were able to strike a deal. The business relationship between the parties was still in existence 10 years later.

Q: What are the most challenging legal problems currently facing clients in your practice area?

A: As U.S. franchisors and distribution companies expand internationally, the most challenging issues involve timing, due diligence in finding the right partner, devoting sufficient resources to the relationship and finding efficient methods to resolve disputes. From a timing standpoint, many franchisors venture into international franchising when they are yet perfecting their system in the U.S. and have few resources to commit to an international development program while others miss opportunities for fear of the unknown. Due diligence in international transactions involves time, effort and money, and U.S. franchisors and other companies seeking international business partners often fail to devote the resources to adequate due diligence.

Q: How do you see your practice area evolving in the next five years?

A: Companies expanding through franchising and other distribution methods will continue to pursue relationships outside the U.S. and often in less developed countries where opportunities (and risks) are the greatest. I also anticipate an increase in international regulation of franchising and related distribution methods of conducting business.

Q: Outside your own firm, name one lawyer who's impressed you and tell us why.

A: The late Lew Rudnick [formerly of DLA Piper] was a tremendous franchise lawyer who also found time to talk to younger lawyers developing their practice. He introduced himself to me when I attended my first ABA franchise conference as an associate and recognized me the next time we met.

Q: What advice would you give to a young lawyer interested in getting into your practice area?

A: Learn the basics of domestic franchise or distribution law and establish a practice (private or in-house) and international opportunities will arise.