



Disney's GC Works His Magic

Alan Braverman, general counsel at The Walt Disney Co.,
has an instinct for what's around the corner

BY JOE MULLICH
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In 2007, Alan Braverman, the longtime senior executive vice president, secretary and general counsel for The Walt Disney Co., sat facing an executive from a major U.S. tech company and made a substantial promise: If the executive's company would voluntarily take meaningful steps to mitigate piracy, Disney wouldn't sue it, even if the websites it operated continued to display infringing content.

At the time, The Walt Disney Co., with its treasure trove of beloved characters and stories, was deeply concerned about the growth of user-generated content (UGC) sites—such as YouTube, which allow anyone to upload songs and film clips, whether they have the rights to the material or not—and the possibility of its content being distributed freely online. UGC sites, for their part, were concerned their embryonic businesses would face litigation from content creators like Disney. “No one was talking to each other,” Braverman says. “Both sides were engaging in provocative rhetoric and firing shots at one another.”

To combat that dynamic, Braverman arranged a private meeting with a tech executive and asked: Would you share in the goal of eliminating copyright infringement if we could figure out a way to get there? Forget about the impediments to getting there. Would you share in the goal?

“What other companies are you talking to?” the tech executive asked.

Braverman smiled pleasantly and waved his hand. “That’s not important right now. I’m just asking if you would share in the goal.”

The resistance thawed slightly. But it took many months of negotiation before Braverman added the irresistible carrot: Oh, and if we came up with an agreed set of principles, Disney would promise to never sue you no matter how much of our copyrighted material ended up on your site, because we’d know you were making a good-faith effort to deal with the problem.

“Yes,” the tech executive replied, “we would share in the goal—if we could figure out a way to get there.”

Braverman took the executive's input about content filters and other practices that could address the copyright-infringement issue to an executive at the next top tech company, remaining mute on precisely where the ideas were coming from.

Through nearly a year of this shuttle diplomacy, a set of rules was developed and agreed to by Disney and Microsoft Corp., both of which led the effort, as well as Viacom, Myspace, NBC, Dailymotion and other industry heavyweights. In a world where business objectives often clash, the agreement was called a “rare cross-industry accord” by *The Wall Street Journal*.

“We never would have found common ground if we had everyone sitting in the room at the same time because that would have triggered the defensive rhetoric,” Braverman says. “So that was the rule: Never have everyone in the same room.”

Recently, Youku.com Inc., China's leading Internet television company, which Braverman first visited two years ago,

became the first Chinese company to sign aboard the User Generated Content Principles. And, though Braverman was not mentioned in the many articles about the important agreement, it exists in large part because of the man who has remained a key strategic adviser at Capital Cities/ABC Inc. and Disney for three decades, under a cast of bosses with bigger-than-life personalities.

“There are a lot of excellent lawyers who pile ahead and muscle their way in, shouting and threatening their way through,” says Bill Perlstein, co-managing partner at WilmerHale, where Braverman first practiced. “Alan is very strategic, and he always tries to peel away the external and find what the real motivations are. He thinks through what the other side is trying to get and comes up with a solution that makes everyone feel good.”

BRAVERMAN, WHO IS 63 WITH THE TRIM, ATHLETIC FRAME OF someone who enjoys hiking and skiing, begins each day with his newspapers. First, *The Boston Globe* to see the fate of his beloved Red Sox, to whom he keeps a shrine in the corner of his office in the Team Disney building on The Walt Disney Studios lot. “Bob [Iger, the president and CEO of Disney] is a Yankee fan, so we can't be happy on the same day if they play each other,” Braverman says. After the box scores, he moves on to *The New York Times* and *The Wall Street Journal*.

“I always find stories that presage things we're not thinking about as a legal department,” he says. “A week hasn't gone by where I haven't put together a meeting based on something I read—are we ready for this, do we have the expertise to deal with this? As a general counsel, you need an instinct for what's around the corner.”

That instinct served him well at Capital Cities/ABC, where he was general counsel prior to its merger with Disney in 1996. One day, Braverman read about rumors that Disney was thinking of acquiring a media company. If so, CapCities, which had aired *The Wonderful World of Disney* on ABC, made an appealing pairing with Disney because of their longstanding relationship.

Though Braverman had heard no inklings about a Disney-CapCities merger, he immediately called a partner at what was then Wilmer, Cutler & Pickering and asked him to assemble a notebook of everything a general counsel needed to know if he found himself in an M&A situation. The partner overnighted a thick book. “I read the thing as if my life depended on it,” Braverman says.

Reading sections of the book every evening, he finished studying the tome on a Wednesday night, still unaware of whether Disney would even approach CapCities about a merger. The next morning his CapCities boss called and said, “We sold the company to Disney. You can't tell anyone on your staff until the close of market on Friday, and we need to have the deal done for the board meeting on Monday at 7 a.m.”

Because of his instincts, Braverman was prepared for what he calls the equivalent of a merger speed-date. “What it taught me

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as a general counsel,” Braverman says, “is that not only is there no shame in admitting what you don’t know, you should be very aware and conscious of what you don’t know so you can prepare as best you can.”

BRAVERMAN’S PARENTS RAN A CHILDREN’S CLOTHING STORE

in Boston and predicted when he was 9 that he’d grow up to become a lawyer. A born puzzle-solver and listener with a thoughtful demeanor that caused others to seek out his counsel at an early age, Braverman’s early yeshiva education while in grammar school—with lengthy Socratic interpretations of the Torah—whetted his natural curiosity and his appetite for intellectual debate. “In the fourth grade, we spent a week discussing what ‘an eye for an eye and a tooth for a tooth’ meant,” he recalls. “I loved it.”

Braverman went on to get a bachelor’s degree from Brandeis University in 1969, then worked for two years as a VISTA volunteer in Gary, Ind. He then attended law school at Duquesne University in Pittsburgh at night while teaching during the day to support himself. “It was a wonderful law school, but regional, and the ambitions of the students tended to be regional,” Braverman says.

Like most of his classmates, he planned to take a job at a Pittsburgh law firm, but happened to stay after class one day to ask questions, and a remedies professor he barely knew encouraged Braverman to broaden the scope of his horizons. The professor wrote letters of recommendation that led Braverman to Wilmer, Cutler & Pickering in Washington, D.C., in 1976, where he focused on commercial and administrative litigation. Later he moved on to ABC after, he says, he placed a congratulatory call to a former colleague, at the time the acting general counsel, who had just landed a new senior executive position. During the conversation, Braverman was asked if he might be interested in the deputy general counsel post and be trained in as his successor.

“The millennial generation has grown up believing life is a complicated chess game, where every move you make from the first school you attend preordains your professional career,” he says. “But my entire career has been an enormous exercise in serendipity. Shockingly little planning has gone into this. So when people ask my career advice, as they sometimes do, I tell them the best thing they can do is stay after class and ask questions,” Braverman says with a smile before adding, “People should focus on the challenges they’ve been given and the rest takes care of itself.”

At ABC, though young and untutored in Federal Communications Commission regulations, Braverman made his mark because, he says, “I focused on asking the right questions. The ability to ask the right questions makes an enormous

contribution even if you don’t know the right answer yourself.”

James Quinn, a litigation partner at Weil, Gotshal & Manges who works on high-stakes commercial disputes and has collaborated with Braverman on a number of cases, says Braverman is “in the more inquisitive mode of general counsels. He doesn’t second-guess you, but he raises good questions.” Quinn recalls a Disney case in which the consensus of all the outside counsel was to settle. “At the end of the discussion, Alan asked one question: ‘Why do we have to settle now?’” Quinn recalls. “It was enough of a pushback that we rethought our position, didn’t settle and ended up winning the case.”

That inquisitive nature works in tandem with Braverman’s finely tuned analytical skills, Quinn says. “In Delaware, the Disney board was being sued in connection with the termination package for Michael Ovitz. Even though Alan knew this was going to be a highly publicized case, he correctly analyzed the law and realized Disney would ultimately win on the law.”

John Pepper, the chairman of the board for Disney, says this thoughtfulness is apparent in the way Braverman handles his broad portfolio of matters. “He penetrates issues very deeply and brings a contrarian point of view when he feels it’s needed and advances his position doggedly,” Pepper says. “He’s not adversarial, but is persistent in his point in an intellectually grounded way. He gives you the straight scoop.” This is especially important considering that complex, highly publicized cases have been a constant for Braverman. When he went to ABC, it was during the height of investigative journalism and hidden cameras. Braverman was on a ski slope when he received a call that Philip Morris was suing ABC for \$15 billion over an ABC News report focusing on the nicotine content in cigarettes. Braverman’s response was, “Did you say billion with a ‘b’?”

In another case around the same time, Food Lion was suing over another news report that alleged unsanitary handling of meat and seafood at the supermarket chain. That case ushered in the era in which media coverage of trials was almost as significant as the trials themselves. “Food Lion hired a very sophisticated PR firm, and at the end of each day they handed out [to the media] a fact sheet of what happened in court that bore very little resemblance of what actually went on in court,” Braverman says. “It was their best hope of what the jury thought. We won the case, but the impression that was created by the daily briefing had a long-term effect.”

At an iconic company like Disney, every legal matter has the potential to be a giant news story, which, in turn, makes Disney an appealing company to sue. Over the years, Disney has been sued by a Pennsylvania woman who claimed she was groped by a Donald Duck; by a man who said he was stranded on the

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“it’s a small world” ride for 40 minutes; by a man who claimed a breach of contract for his contestant appearance on *Who Wants To Be A Millionaire*, claiming that the \$16,000 question—which he responded to incorrectly—was not “an absolute question with a singularly correct answer”; and by a woman who claimed her script was used to develop *Desperate Housewives*, citing, in part, the similarity between both works including the similar use of the word “fun” and that they both contained a red car.

Braverman gets a report on every suit, and pays personal attention to any case with a significant financial, reputational or principle risk, such as one that might set new parameters on intellectual property protection. Much of his attention, though, is focused on even more strategic matters in the rapidly evolving entertainment and media landscape.

“We are going through an amazing, interesting, transformational time,” he says. “When I was at ABC, the most driving issue was the strength of our prime-time schedule. If we had great shows, the business took care of itself.”

His CapCities boss had a motto: You want to be No. 1; it’s OK to be No. 2; and you hate to be No. 3—but you still make money even if you come in last place.

“Today you could have wonderful creative success with a program and not have it work because there are too many alternatives,” Braverman says. “Warren Buffett, who was on the board of CapCities, was fond of saying, ‘We’re not in the TV business; we’re in the business of competing for people’s leisure time.’ As much as I loved the old CapCities days, this is an unimaginably more exciting time.”

With technology’s constant evolution, it’s certainly a more challenging one. Concerns for Braverman, he says, include “the rapid emergence of new platforms for content distribution, and the way that relates to things like copyright and intellectual property protection.”

Pepper praises Braverman for his judgment on not just legal issues, but also on matters of strategy and business ethics. “He doesn’t mince words, but he’s not bombastic. He’s calm and confident, which makes the information easier to receive,” Pepper says. “He works very hard to make sure the board understands all the ramifications of an issue without becoming boring. Some people would cover the subject faster, but I’d rather have the feeling that he is erring on telling us more than we need to know.”

That diligence, Pepper says, applies to topics as diverse as laying out the risk in acquisitions and ensuring Disney employees were thoroughly prepared for the Foreign Corrupt Practices Act. “He is a zealot in making sure the training was in place, because he understands the consequences if it’s not done correctly,” Pepper says. “It isn’t just something that he checks a box.”

Iger, who has worked with Braverman for 30 years at ABC and Disney, says, “While the advice Alan gives is legal, he always puts it in a business context. I view Alan as a partner at many levels, and I consult him on matters that go well beyond the purview of most general counsels, such as personnel, M&A and strategy. He’s recognized that the business we’re in is very dynamic and changing almost right before our eyes.”

In areas like intellectual property and the digital landscape, Iger says, “you need a legal perspective that gives really strong advice that takes into account the unknown. It’s important to be less doctrinal and more flexible. He’s done a good job adapting to change, adapting his advice, and exhorting the legal side to recognize that change and be more expansive in their thinking.”

In Braverman’s view, the transformational time in an innovative culture “should be the golden age of business-legal cooperation.” In recent years, Disney has significantly reorganized its studios, parks and resorts to allow the divisions to work more cooperatively. That has caused Braverman to rethink the organization of Disney’s legal department, which has some 350 attorneys companywide.

“All organizational structures are a product of past thinking, with structures in place to solve yesterday’s problems,” he says. “We can only optimally service the business if we conform to how they think business needs to be addressed. We have to ask if our lawyers have the right knowledge base to guide clients through transformative times. The lawyers have to understand the technology, consume it and participate in it to understand shifts in consumer sentiments.”

A couple of years ago, the legal department began having global videoconferences three or four times a year to discuss influential changes to the business, such as emerging technology. Braverman also told his lawyers it’s imperative that each has and plays with a PDA or tablet computer. He uses his tablet for everything, from listening to music to playing games to reading *Trinity Six*, a Cold War spy novel. The story is about the British and Russian governments fighting to keep the identity of an operative unknown—which seems appropriate because anonymity is another Braverman trait.

In James B. Stewart’s bestselling *DisneyWar*, which is largely about legal matters and is replete with fly-on-the-wall moments, Braverman is mentioned just twice, and then only fleetingly. It’s something Braverman prides himself on. “My greatest accomplishments are things you don’t know about,” he says. “I stay behind the scenes. I never want it to be about me.”

In person, Braverman confesses a certain amount of apprehension that comes from not having given an in-depth interview in 18 years. His intelligence and puckishness are

apparent from the start. When asked if he tends to answer questions with a question, he replies, with a stand-up comic's timing, "What do you mean?"

Still, it's a surprise when he's asked about a disco ball that lies on a table in the corner of his office and he leaps from his seat and plays a clip from a Disney management retreat from several years ago. *Dancing With the Stars*, an ABC show, had just debuted, and Iger declared that as an icebreaker, several top Disney executives would be paired with the professional dancers and compete before the some 250 employees who came to the retreat.

Braverman, who was voted the winner by the majority of those attendees, was paired with Russian dancer Anna Trebunskaya and trained for six hours before making his debut. On the tape, as Ricky Martin's pulsating "She Bangs" plays, Braverman cha-chachas with athletic exuberance, cocking his hat and grinning like a modern-day Gene Kelly.

"What Alan did there was no surprise," Iger says. "I know he has talent that extends beyond the talent he brings to the office. And he takes every task seriously with an idea to doing it well. He doesn't phone anything in."

Braverman, watching himself on tape, laughs uproariously. "I was more nervous than I was at my bar mitzvah," he says, adding that he wasn't much of a dancer before this. "Anna's mother, who was also a dancer, came to one of the practices and said the most important

thing you can do in a dance competition is to look like you're having fun and get into it. And then people will have fun with you."

And perhaps, in a way, that captures what WilmerHale's Perlstein means when he says, "Alan must deal with an enormous range of personalities in the glare of enormous press and coverage and not miss a step." Indeed, Braverman's tap dance as general counsel is acting as the legal safeguard to a company dedicated to fun.

"We have a very conservative company," he says. "That's for good reason and a lot relates to our brand. The wonderful thing about working for Disney is everyone has a deep emotional connection to it. When I tell people where I work, they always have a story."

Braverman has his own personal story, from when Disney brought *The Lion King* musical to a massive new theater in Shanghai. "I believe it was the first U.S. musical performed in China," he says. "The genre was new, and there was no telling how the audience would respond. I spent virtually the entire evening watching the faces of the kids in the audience and it was breathtaking. In that moment, it captured why it's so wonderful to work for this company. We bring joy to people and entertain them with heartfelt stories that move them." **NY**



Standing (L to R): Adam C. Silverstein, David W. Morse, Richard G. Haddad, Glenn B. Rice, Jonathan N. Helfat, Richard L. Stehl
Seated (L to R): Melanie L. Cyganowski, Daniel Wallen, Valerie S. Mason, Scott L. Hazan

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