

UP CLOSE & PERSONAL

AS CHAIR OF MARQUES, THE ASSOCIATION OF EUROPEAN TRADE MARK OWNERS, AND CHIEF IP COUNSEL AT ARLA FOODS, **TOVE GRAULUND** HAS PLAYED A SIGNIFICANT ROLE IN THE EVOLUTION OF TRADEMARK PRACTICE IN EUROPE, AS JO RUSSELL DISCOVERS



I was typing out 25 pages of chemical formulas, for a patent application, on a typewriter with carbon paper. That's the equivalent of saying your grandfather went to school without shoes.'

Surprisingly enough, not the words of a disillusioned erstwhile attorney, but in fact Tove Graulund talking about her first experiences in IP.

From fairly inauspicious roots as a cash-strapped student, Tove has spent almost 20 years mapping out a career that has taken her to the top of her profession, and brought recognition as a key figure on the global stage.

Tove was studying English and French at Copenhagen Business School, when a friend suggested she apply to work with her father, a part owner of one of the largest Danish patent and trademark agencies. The temp job

became permanent on graduation, and a year later, she had moved across to the fledgling IP department at MD Foods (now Arla Foods), where she has remained for the last 19 years.

'There were just two of us when I joined. We have five now, but the company itself has changed so much.'

Arla Foods now has 20,000 people, and a turnover of just over £4 billion. Thanks to a series of acquisitions and mergers, it can now claim to be Europe's second-largest dairy company. The biggest merger took place in 2000, between Danish MD Foods and Swedish Arla.

Tove attributes her lengthy tenure at Arla Foods to the constant challenges that the merger programme has brought – particularly the move in 2000, which brought a new home market, new colleagues and interestingly, a new culture.

'We thought we were the same, but the Danes are more "I" focused,' says Tove. 'If the boss makes a decision, then that is what happens, whereas the Swedes are more consensus-based. That has its advantages, but it can slow up decision-making.'

A global portfolio

Much of the IP work at Arla had previously been outsourced, so bringing it in-house in the merged company was testing, given the lack of first-hand knowledge. And, of course, there has been the constant challenge of managing an ever-shifting trademark portfolio that now sits at in excess of 5,000 global registrations.

The other huge change, Tove believes, has been the emergence of brands and brand values. By this she means the ability to tell a story, or

create a universe, around a product, which triggers an emotional response for the consumer – the reason, as she says, that you feel differently about a Volkswagen to a Mitsubishi.

This emphasis on brands has changed the way that the IP department works. 'We work very closely with the marketing department, because we need to understand what is important to them. We have to move beyond talking about trademark registration, because now we are trying to protect the "universe". We would love to protect our brands, but since brands are not recognised by the law, it isn't possible, try as we may. At least if we discuss it, it makes us more prepared for anything that might threaten the brand.'

This is an area in which the law has not kept pace, Tove continues. 'Sure, we can protect many of the brand cues, but

protecting each element doesn't mean that we have protected the totality of it.' The branded product is more than the sum of its constituent elements.

The question, she says, is whether it is actually in society's interest for the law to go further. There is an argument that it could harm competition. And how can you protect the thoughts and ideas in the minds of the consumer? Consider for a moment that these thoughts and ideas might in fact be the competitive edge of your product. It's a tricky, but fascinating area, Tove enthuses.

Such close interaction with the marketing department has meant that

the IP department is effectively divided into two functions in modern companies such as Arla Foods – the front and back offices. While the back office deals with registrations and renewals and the like, the front office is involved with business strategy, meeting constantly with the marketing department, together finding ways to minimise threats from, predominantly, lookalikes.

Tove sees that it is essential for in-house IP professionals to have good communication skills, in order to create a good dialogue with other departments. 'You don't want to be seen as a legal hindrance, someone they have to get

THE BRANDED PRODUCT IS MORE THAN THE SUM OF ITS CONSTITUENT ELEMENTS. THE QUESTION IS WHETHER IT IS ACTUALLY IN SOCIETY'S INTEREST FOR THE LAW TO GO FURTHER.

past. I'm a trademark nerd myself, but you have to come out of your ivory tower, and try and understand where other people are coming from, otherwise you can't do your job well.'

Building relations

Tove, who is clearly a 'people person', thrives on interaction with others, building personal relationships, and on the challenges that communicating with people with different perspectives brings. Not only does she enjoy the challenge of understanding different viewpoints while expressing her own, she feels that this kind of exposure is beneficial to self-development. 'It makes you more tolerant. You may have opinions, but you're prepared to listen to others.'

This love of dialogue and communication has been a key factor behind Tove's involvement with MARQUES, where she has been chair for the last five years. Initially drawn by the ability to network with colleagues across Europe, Tove has since played a key role in improving the service the association offers to its members: 'We knew that with all the other associations around, vying for the same people's time, we had to become more than just a conference.'

After a bit of self-scrutiny back in 2002, the MARQUES Council decided to create a series of project teams, whose role is to provide expertise in a number of specialised areas. One team specialises in geographical indications, for example, and has created a database – accessible to members only – that lists all European registered GIs, the law in each state, any bilateral agreements, and other information relevant to this area. Another team was set up to actively add value to members.

'Rather than people asking us what they can do, we try and encourage people who want to become involved, to think about what it is that interests them,' says Tove. 'This makes it much more fun for them. We wanted to avoid people who wanted to get onto a team just to improve their profile and then become deadwood. And I think we've succeeded.'

Other successes of which Tove is proud include the creation of the national



'IP SHOULD BE ABOUT BUSINESS AND PROTECTING INNOVATION TO THE BENEFIT OF ALL INDIVIDUALS AND COMPANIES, LARGE AND SMALL.'

PTO forum ('where we can sit and have open and honest discussion, and share best practice') and MARQUES' role in lobbying on behalf of its members over the reduction of OHIM fees – an issue that she is sure is about to rear its head again. 'The fact that Brazil is now looking to join the Madrid Protocol proves the point that associations like MARQUES do make a difference,' she adds.

THE ASSOCIATION OF EUROPEAN TRADE MARK OWNERS

MARQUES was founded in 1987 to represent the interests of trademark owners in the EU and to promote communication between brand owners in Europe through networking and educational events.

● For further information or to join, visit www.marques.org.

But if there is one thing concerning her, it is the growing politicisation of IP. Her perception is that increasingly (since TRIPs), IP is intertwined with trade issues, and is used as a tool in the struggle between industrialised and developing nations. 'IP should be about business and protecting innovation to the benefit of all individuals and companies, large and small. Global IP discussions should centre around improving the systems and their efficiency – what relevance are trade balances and import restrictions?' However, she sees no prospect of a lessening of political influence on the horizon, even if MARQUES keeps fighting for the interests of businesses.

New leadership

Although shortly to step down as chair of MARQUES, Tove still expects to play a role within the association. Tove has built up too many contacts and developed too many relationships that cannot easily be passed on for her to sever all ties. Neither would she want to leave all her old friends behind. When asked why she would encourage people to join the association, 'good fun' scores pretty highly.

After 19 years at Arla Foods, Tove is also on the move – to Zacco, the leading IP consultancy in Scandinavia. But why private practice? 'A year ago, I would have laughed if someone had told me I was going to private practice. I would have found it ridiculous. But when I started thinking, it made more and more sense.'

'I wanted to stay in IP, and I wanted to be core business,' she continues. 'I didn't want to be in a law firm where I would just be a department in a corner, and I wanted to have more of a direct impact than would be possible in-house. Besides, what would going into another company offer me that I hadn't already experienced?'

Zacco was a good fit, in that it would enable her to share her experience with many different clients, while broadening her horizons through building relations with a wider client base. It also helped that her future boss is a good and trusted friend. And close personal relations, as she may have mentioned before, is what it's all about.