

## MVP: Mayer Brown's David A. Carpenter

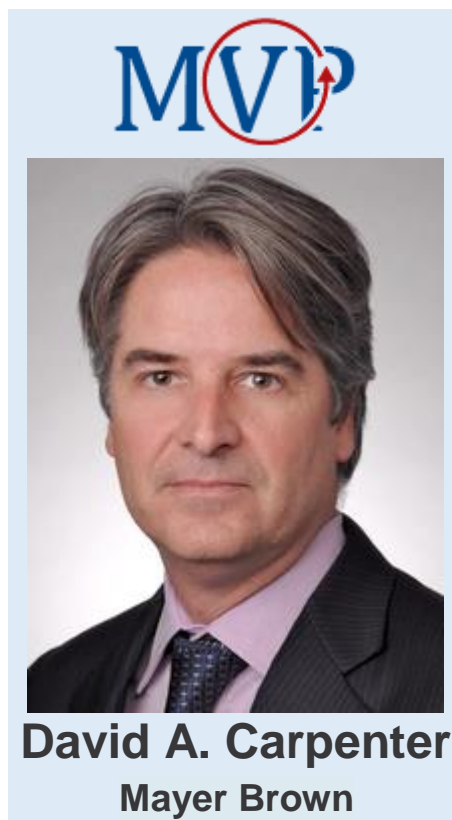
*Law360 (December 13, 2018, 11:15 AM EST)* -- Mayer Brown LLP's David A. Carpenter worked closely with Nestle this past year, advising the food giant as it expands its health and wellness portfolio and takes on a \$7.15 billion tie-up with Starbucks while trimming its confectionery business, earning him a spot among Law360's 2018 Food & Beverage MVPs.

### ***HIS BIGGEST ACCOMPLISHMENT THIS YEAR:***

Carpenter has counted Switzerland-based Nestle SA as a client for more than 20 years, with the past 12 months proving to be a banner year as he guided the food company in paying \$7.15 billion to take over Starbucks Corp.'s worldwide consumer-products and food-service coffee and tea businesses along with related licensing and distribution arrangements.

A Mayer Brown partner with expertise in cross-border transaction, Carpenter focuses on mergers and acquisitions, divestitures and sales of businesses, joint ventures and strategic alliances. What stood out for him with the Nestle-Starbucks tie-up announced in May, he said, is the complex nature of the deal, which is structured to last for centuries — if not forever.

"The Starbucks transaction was a huge accomplishment," Carpenter said. "Starbucks is such a well-known brand, and this transaction was very different from a typical M&A transaction. We worked on having the two companies reach agreement on a relationship that will go into perpetuity. The license between



Nestle and Starbucks lasts forever, and when you're a lawyer tackling something that lasts forever, you have to think about what they are going to do 100 years from now. It's a very complex transaction with a lot of touchpoints."

Calling the deal "transformational," Carpenter said Nestle was well positioned in the coffee market with its NesCafé instant and Nespresso capsule products, but prior to the tie-up it didn't have a large presence in the roast and ground market. Now, he said, the two companies' "global coffee alliance" will bring the Starbucks experience to consumers' homes as Nestle takes over its new strategic partner's marketing, sale and distribution rights for most of its retail and grocery store items.

"In a typical merger or acquisition, you sign a transaction, you close it and then the relationship between the two companies ends right there, because either it's been acquired from another strategic company that is getting out of that business, or it's a standalone business whose shareholders have looked to exit," Carpenter said. "Here, it's an ongoing relationship that will span the decades."

#### ***OTHER NOTABLE TRANSACTIONS:***

Carpenter has helped Nestle realize five significant achievements over the past year, starting with the Starbucks alliance but also including Nestle U.S.A. Inc.'s \$2.8 billion confectionery sale to Ferrero International SA; Nestle Health Science SA's \$2.3 billion acquisition of Canada-based nutritional health products maker Atrium Innovations Inc.; its investment in nutritional health products firm Aimmune Therapeutics for a 15 percent stake; and its \$100 million investment in a nutritional health fund managed by the Boston-based Flagship Ventures venture capital fund.

"A lot of the work I do these days is in conjunction with moving Nestle from a platform that was less about health and wellness to one that takes into account the nutritional aspects of what they're selling," Carpenter said. "For example, we helped them sell their confections business this year — which were the Nestle Crunch, Butterfingers, Baby Ruth and Sweet Tarts products — and while they were selling that business, they were acquiring Atrium Innovations, which is a very large supplements and vitamins and nutritionals business."

The Mayer Brown attorney explained that Nestle is following a pattern of moving away from foods that have less nutritional value to those that are part of well-being, but he noted that solid acquisition opportunities rarely come up in those spaces.

"Those are assets that don't come on the market frequently, particularly ones that actually have science-backed claims relative to the food," Carpenter said. "So when Nestle identified Atrium as a potential acquisition target, the attractiveness was that it was not one of these fly-by-night companies that says

‘these supplements will make you a superhero,’ but instead it has actual science-backed claims related to a value proposition for foods.”

### ***HIS BIGGEST CHALLENGE THIS YEAR:***

Hedge fund investor Dan Loeb and the asset management firm he founded, Third Point LLC, are putting Nestle under tremendous activist pressure to make fast changes to the food company and spin off divisions that don’t accord with its wellness strategy, according to Carpenter.

“It’s very difficult for Nestle CEO Mark Schneider, who has been at the company for less than a year, to come in and face that pressure to review Nestle and move at the pace that an activist investor wants him to,” Carpenter said. “While Mark certainly had lots of plans for Nestle and is an innovative chief executive, being under the scrutiny of an activist the minute you start at a company is quite challenging.”

At the same time, Carpenter said, he and other attorneys at Mayer Brown must hammer out Nestle’s deals as quickly as possible to keep the activist pressure at bay.

“Activist activity is a positive thing for both investment banks and for lawyers because we help implement the strategic plan that comes out of an activist campaign,” he said. “The acquisition of Atrium Innovations, the sale of the confections business, the Starbucks transaction and Nestle’s sale of its Gerber Life business are four multibillion-dollar transactions that we’ve been involved in for Nestle in the last 12 to 18 months. It’s a lot of high-level strategic work that we’re fortunate enough to be entrusted with by Nestle.”

### ***WHY HE’S A FOOD & BEVERAGE LAWYER***

Carpenter joined Mayer Brown in 1987 in Chicago, doing real estate investment trust work, then moved on and spent four years in the firm’s London office doing cross-border M&A. His food and beverage expertise came as a result of that cross-border work, he recalled.

“I was very fortunate at a relatively young point in my career to be hired to do a couple of transactions for Nestle, which has led me to continue to work in this space for 20 years now,” Carpenter said. “We also do Nestle distribution, supply chain and contract manufacturing agreements, which are the guts of a company in the food and beverage business. All of those day-to-day things you do for a company helps you to be a better M&A lawyer because you understand their business better.”

He said he also likes working with the senior executives of well-managed Fortune 100 and Fortune 400 companies, which do a lot of transactions and rely heavily on outside firms to get them through the process.

“I look at an M&A deal as crisis management in some ways, but a positive crisis as opposed to a negative one,” Carpenter said. “You’re working with people on some of the most strategic initiatives that they have going. It’s a very sophisticated group of people, and it’s rewarding to be involved and offer expertise that helps them achieve their objectives.”

— *As told to Joyce Hanson*

*Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2018 MVP winners after reviewing nearly 1,000 submissions.*