

From Yellow Pages to Web Pages — Legal Marketing Meets Technology

by Michael Heatherly

It's hard to believe now, but until 33 years ago our profession was forbidden from advertising beyond a simple listing of contact information. Then in *Bates v. State Bar of Arizona*, 433 U.S. 350 (1977), the U.S. Supreme Court held that lawyer advertising was a type of commercial speech protected by the First Amendment. The decision forced bar associations across the country to abandon the long-held notion that advertising was unethical and demeaning to the profession. Justice Harry Blackmun, author of the majority opinion, went so far as to suggest that the legal profession had hurt its reputation by *not* advertising:

Moreover, the assertion that advertising will diminish the attorney's reputation in the community is open to question. Bankers and engineers advertise, and yet these professions are not regarded as undignified. In fact, it has been suggested that the failure of lawyers to advertise creates public disillusionment with the profession. The absence of advertising may be seen to reflect the profession's failure to reach out and serve the community: Studies reveal that many persons do not obtain counsel even when they perceive a need because of the feared price of services or because of an inability to locate a competent attorney. Indeed, cynicism with regard to the profession may be created by the fact that it long has publicly eschewed advertising, while condoning the actions of the attorney who structures his social or civic associations so as to provide contacts with potential clients. (433 U.S. 350, 370-371)

It is unlikely that many citizens, including those who practice law, have taken notice of *Bates*. I haven't heard of any high schools sponsoring essay contests on the significance of the case to American society. But it's hard to deny the impact the decision has had on the business of practicing law. Today, we in the legal profession nationwide spend an estimated \$4.5 billion annually to splash our names, faces, logos, and qualifications onto the televisions, computer screens, and printed pages eyeballed daily by consumers. Try browsing an online newspaper or watching a cable TV show without seeing one of our peers offering to beat a DUI, settle with the IRS, or litigate a mesothelioma claim.

But if *Bates* opened the Bronze Age of lawyer advertising, the current explosion of web-search optimizing and social networking may be its Industrial Revolution. On January 21–22, an event called the “Advocating Conference” offered the opportunity to witness the fusion of legal marketing and technology firsthand. I and nearly 200 other lawyers from around the country converged at a waterfront Seattle conference center, not to learn about practicing law but to learn how to make ourselves known to consumers who might hire us to practice law. The event was produced by Seattle-based Avvo, Inc., an online lawyer directory and rating site that launched three years ago. In a way, Avvo's history has mirrored that of lawyer advertising in general. While it opened to controversy and considerable disdain among some in the bar, it has since gained popularity with the profession, now having roughly 50,000 active lawyer-users nationwide. [*Editor's Note: Avvo President Mark Britton answers my questions regarding the company's history, the current ethical climate of lawyer advertising, and other issues on page 26. On page 29, Seattle lawyer Diana Dearmin summarizes the ever-changing legal and ethical landscape of social networking.*]

Besides lawyers, attendees at the conference included marketing professionals who specialize in helping lawyers sell their services. The audience was diverse, particularly in age and geography. I met attendees who were in their 20s and in their 70s, and 30 states were represented. Sponsors of the event included a mix of law firms (e.g., Perkins Coie, Savitt Bruce & Willey) and tech companies (e.g., Microsoft, Google, and Facebook), as well as the University of Washington.

Unless you're a true web geek, you probably won't recognize the names of the presenters. On the other hand, unless you live in a cave without Wi-Fi access, you'll be familiar with the corporate names on their résumés: the aforementioned Microsoft, Google, and Facebook, as well as LinkedIn and Justia.com, among others. Many presenters had no legal background, although the keynote speaker was Robert Ambrogi, a Massachusetts-based polymath who is a practicing lawyer as well as an author, editor, and blogger. These days, I meet an increasing number of lawyers who, like Ambrogi (and me, for that matter) have developed almost an alter ego — a media or online presence that is separate from their practices but still relates to them somehow. And, after all, part of the purpose of “Avvocating” is to help lawyers develop such a presence.

Rather than the typical “Emerging Issues under CR26” or “Five Tips for Drafting a Special Needs Trust” that you might expect at an educational gathering of lawyers, conference topics included the following: “Going Deep with Facebook,” “Beyond the Fail Whale: Twitter Best Practices,” and “Advanced Pay-per-Click Marketing.” I wish I could give you a clear idea of what these presentations were about, but I can't. This was an advanced seminar, and while I “tweet” on Twitter (I'm “barbeat” — follow me), my knowledge of web and social networking skills is not advanced. But the overall message was this: the Internet offers myriad tools for lawyers, like other business people, to get themselves noticed, build their reputations, construct networks of colleagues and referral sources, and actually attract and retain clients. There was a corollary, though: doing this effectively takes time, money, or both.

If much of the course material was figuratively over my head, much of the presentation was literally over my head. Not surprisingly, considering the tech-oriented nature of the conference, the presentations featured rock-star-sized graphic and video elements that dominated the stage. Also appropriate to the proceedings, the stage setup included a video screen showing a live Twitter feed with scrolling messages from attendees and non-attendees alike. Comments included flames from bloggers with varying differences of opinion concerning the subject matter of the conference and certain participants. Somehow it all seemed appropriate, though, as a microcosm of the entire Internet. If the conference attendees wished to venture into cyberspace, they might as well get a taste of the attendant hazards as well as the opportunities that awaited them.

To find out what drew people to the conference and what they learned, I spoke with several at the event and followed up with questions by e-mail. Charles P. Moure, 48, who practices international litigation with Harris & Moure in Seattle, said, “Because we draw clients from around the world, the Internet has been a very powerful tool for us to reach out to potential clients.” The conference, he added, “did a good job in bringing together many of the various web-based companies that we have used to great effect, especially Google and LinkedIn.”

Moure recalled, “When we started getting into web-based marketing five to six years ago, attorneys were not blogging. There was no Avvo, Facebook, LinkedIn, or Twitter, and Google AdWords was just getting started. Now, all of those tools have taken off for attorneys. I think all of the above will continue to grow in popularity for all professionals as a way to reach out to clients and potential clients. The Internet is incredible in how fast it is evolving and changing. Something new will show up that none of us are aware of and [it] will probably be within the next 12 months. That is what makes it both exciting and challenging.”

Michelle Gottesman is a 37-year-old lawyer from Troy, Michigan, who handles mainly Social Security disability appeals. “After five years practicing with a firm, I was starting my own firm [in] December 2009,” she said. “I knew I didn’t have the capital to fund traditional marketing (TV ads, yellow pages, radio, etc.), and I believed the trend in marketing was moving to the Internet.

“Although I do believe there currently exists a great deal of free legal information on the Internet, a very large portion of the market audience doesn’t naturally go to the Internet in search of an attorney, though I think this is shifting with the generation change,” Gottesman said. “Just two months into starting my own firm, I have three types of marketing: Internet, print, and a softball league sponsorship. Internet marketing via social media websites, legal websites, and organization ads constitute the bulk of my marketing.”

On the opposite end of the experience spectrum is Richard Egner Jr., a Gresham, Oregon, lawyer who will turn 77 in June. Egner, who practices in estate planning and related areas, was already a veteran attorney by the time of *Bates v. State Bar of Arizona*. “When I started practicing in 1959, much of the advertising now seen in the classified section of the telephone books, newspapers, and other print media would result in a quick hearing before the ethics committee,” he recalled. “Virtually the only thing allowed was a business card with your name, address, and telephone number.”

Egner still relies on old-fashioned word of mouth for 85 to 90 percent of his new clients. But he has grown unhappy with yellow pages advertising and sees himself making greater use of the Internet. “My future marketing will include a listing in the white pages, none in the classified section, and a yet-to-be-birthered website,” he said. “I have no doubt that lawyer marketing will move to the Internet in its various forms with the ability of the public to participate in helping others find attorneys with the quality and skills they are looking for.”

Typical of the non-lawyer attendees at the conference was Louellen Coker, president of Content Solutions, a Denton, Texas, marketing firm that includes lawyers among its clients. “To be competitive with other practitioners, attorneys will need to adopt more of a conversational tone with potential clients,” she said. “While traditional advertising methods such as interruption marketing (billboards, pay-per-click, commercials, etc.) and static web pages will continue to serve a role in marketing, lawyers will need to extend their marketing efforts to be more personal.”

Coker believes consumers will use the same methods to find appropriate legal counsel as they do to locate other goods and services. “When looking for representation, potential clients will start

by looking at their network for recommendations and endorsements, will continue by looking at information obtained through blog postings, tweets, answers to questions on platforms such as Avvo, LinkedIn, or Facebook, and will finally contact the attorney's office," she said. "While traditional marketing outlets will continue to build an attorney's brand, the targeted information provided via online outlets will enable potential clients to feel confident they are contacting the right attorney or firm to begin with, ultimately leading to a more positive experience for everyone involved."

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