

DISCOVERY, DEPOSITIONS AND EVIDENCE RULES

National Business Institute—South Carolina Litigation Start to Finish

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WHAT HAS CHANGED IN LITIGATION?

- Lawyer's try many fewer cases in the mid-20th Century.
- Of those trials, a larger number are non-jury or administrative tribunals compared to the mid-20th Century
- While traditional organization still drives most trial strategy, presentation and style, the method of presentation has changed dramatically
- Electronically stored data means there are almost always more documents/information than you can possibly have humans review

WHAT HAS CHANGED IN LITIGATION?

- Juries in particular, but other fact finders as well, are driven by visuals helping them understand your words and evidence—they expect slick, fast moving, short and to the point audio visual presentations like they see on the web and on TV
- Foundations for evidence and evidence rules remain strikingly the same, traditional concepts are being revised to deal with electronic evidence
- Taking the time to be thorough, fully prepared, and know what's coming from the other side remain the marks of a great trial lawyer (along with at least a bit of acting)

THE TYPICAL LINE UP

- Learning the client's business and goals
- Investigation—find the witnesses, documents and data, determine what experts you need, interview and find them
- Pleadings and motions related to the pleadings or jurisdiction
- Discovery—learn what third parties and opponent knows
 - Fact discovery
 - Expert discovery
- ADR—either private or court annexed mediation/settlement conference

THE TYPICAL LINE UP

- Dispositive motions
- Pre-trial preparation
- Pre-trial brief
- Evidentiary motions
- Trial
- Post-trial motions

How to Protect Your Client's Brand on the Internet



- Most businesses large and small, wholesale and retail, need brand identity to draw in and keep customers
- A brand identifies and separates a business from competitors
- A brand will bring to mind the business's representation for quality of product or service or customer satisfaction

How to Protect Your Client's Brand on the Internet

- As a result, the brand has great value
- A brand can be just a business name
- But it can be a coordinated business strategy of company and subsidiary names, product names, (all usually in the form of word marks), logos, trade dress, and visual or sound marks
- A brand identity costs a great deal to develop
- It requires creativity often provided by consultants, designers, consumer studies and other expensive input
- It requires trademark and advertising searches and legal advice
- Your client does not want to give it away

How to Protect Your Client's Brand on the Internet

- The chart shows the highest valued brands in the world today
- Larger clients will have in-house brand protection programs
- They will need assistance from outside counsel
- Small to medium clients may rely on YOU to provide them advice and provide cost effective ways to protect these valuable assets

FIGURE 1 WORLD'S MOST VALUABLE BRANDS²

Brand	Value [in \$ billions]
Google	\$109.4
Apple	\$107.0
Amazon	\$106.3
AT&T	\$87.0
Microsoft	\$76.2
Samsung	\$66.2
Verizon	\$62.4
Walmart	\$62.2
Facebook	\$61.9
ICBC	\$36.3

Protecting Trademarks/Brands

Monitoring—Step One

- The traditional trademark filing reports and advertising digest reviews won't cut it in the face of the Internet
- Your clients need reliable, supported and continuously updated search solutions that cover the Internet as well

Setting up the Program—Step Two

- Like any form of automated analysis, the value of output comes from input
- You must work with subject matter experts to have search terms that cover your client's markets, likely markets of expansion and the possible permutations of the marks—without overwhelming numbers of hits

QUESTIONS?

COMMENTS?

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