The Management and Marketing Implications of Branding
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Article Introduction

For many lawyers, the whole concept of "branding" smacks of marketing gimmickry. But for those firms who have successfully undertaken the process, they see that it is more akin to strategic planning than most any marketing endeavor they have undertaken. Done well, a branding program not only identified a firm's unique "essence" but it set the course for its future as a law firm. In the process, a successful branding initiative raises some of a firm's most critical management and marketing issues.

This article provides insight into the branding process and explains the five most common management and marketing issues raised as a result.

Branding at a Hypothetical Law Firm

Like many law firms, Smith Stark Edison (SSE) knew it needed a shot in the arm in its business development efforts. While the firm's 225 lawyers were bringing in business across its 20 practice areas, there was no consistency in the firm's overall effort; everyone acted individually, a possible byproduct of the firm's compensation structure. In recent months, several corporate clients had been talking to SSE about how they were looking for firms that had "institutional presence." "Any Fortune 500 firm can find good firms in the practice areas and regions it needs; today we want firms that can offer one-stop shopping through multiple offices while meeting our service, quality, delivery and pricing guidelines," was the type of language that more and more of the firm's clients were using.

Frankly, SSE believed it was going to lose business to other law firms unless it took a hard look at itself and created a strong business marketing plan. After discussions with many consultants, SSE decided that it needed to increase its name recognition in the marketplace. "Once we get a lead into a new business opportunity, we rarely lose it. What we need is just more people knowing who we are," said several of the partners.

SSE created a new "branding" committee and hired a brand development company that specialized in working with professional services companies to assist it in its efforts. The firm facilitated a half-day branding session and requested that all firm decision makers be involved in the session. During the session, the firm focused on the essence of its business and the characteristics that distinguished its practice from all other firms. In part, the branding session forced SSE to make hard decisions about what it really stood for as well as the areas it didn't want to focus on, such as its estate planning and insurance defense practices.

Two weeks after the session, the consultants returned and unveiled options for SSE's brand distinction. The committee quickly decided that the positioning line, "On Technology's Team," captured best the firm's focus of working with second stage global dot com companies. "Now that you've agreed to a brand, the hard work begins," the consultants explained to the committee as they handed over a series of detailed recommendations for internalizing and externalizing the brand.

To make the brand work, the firm would have to spend hundreds of thousands of dollars in both hard and soft dollar costs to make the brand believable throughout the firm as well as to get the message to the external public through advertising, direct mail, seminars and sponsorships. The firm would also need someone to manage all these new activities. Currently its marketing department consisted of a legal secretary who supported the various partners' efforts. Clearly the firm would have to create a more strategic marketing department. If nothing else, it would certainly need to create a strategic plan that set out which activities were priorities and what dollars were associated with them.

Perhaps more critically, the firm also faced issues such as handling unproductive lawyers as well as those who were not in practices committed to working with technology companies.

Exhausted by the thought of these prospects and all the new work that had to be done, they wondered if perhaps they were doing fine simply as they were.

Setting the Stage

At most companies there is common maxim about the underlying aspects of marketing issues. When you take the three issues of time, cost and activity and initiate effort in any one area, the other two areas simultaneously begin moving. When a branding initiative is added to the equation, an additional dynamic occurs. While time, cost and activity are in motion so too are a host of firm management issues, rearing their heads throughout the process with unmistakable force.

Typically, "branding initiatives" are the delegated province of specially empowered law firm marketing committees. Yet, in every instance where a branding initiative is properly administered, it will raise the most thorny and controversial management issues within a firm. In this respect, most firms are not fully prepared for the implications of their own branding exercises. In a strange but positive way, however, the fact that a firm's skeletons happily pop from their closet doors is an asset in the most profound sense as it gives firm's the opportunity to make their firms stronger internally and externally.

In the years since the Bates v. Arizona decision in the late 1970s (when law firm advertising and marketing gained a legal toe-hold in the marketplace), most firms have equated "marketing" issues as somewhat important but not necessary to their survival. What our experience in the branding area has now shown is that there is a perceptible shift in this attitude. Marketing and management issues are becoming increasingly intertwined. In many respects, the prevalence of law firm branding initiatives is leading the way simply because it so thoroughly raises issues of firm direction, commitment and leadership.

In particular, we have identified the five most common management and marketing implications that arise in branding situations. These include:

- Lawyer Time and Activities;
- Negative Fall-Out from the Brand;
- Managing Marketing Costs and Initiatives;
- Firm Leadership; and
- The Strategic Marketing Plan.

While the issues in each of these areas can be firm-or situation-specific, the answers for solving them are similar. To make a branding or marketing initiative work, a law firm must be open to receiving constructive and often critical feedback from within its own ranks and have either the leadership and infrastructure in place to manage it or the commitment to "do what it takes" to create success as a firm.

Defining Branding for Law Firms

A brand is a "claim of distinction." It is nothing more and nothing less. In a world where business executives as well as consumers are bombarded with thousands of messages a day, a brand identity can help a firm distinguish itself in the marketplace.

Yet a brand, particularly a law firm brand, will have more profound implications internally than it will to its external audiences. This is because brands must begin internally to be successful. Done well, brands bring cohesion and structure to a firm's strategic planning and marketing efforts. Executed poorly or merely as a splashy external program of advertisements and mailings, a brand will fail because the people who must make it work -- the lawyers -- will invariably think it is just marketing gimmickry.

In our opinion, the crucial test of a law firm brand is two-fold: 1) does it truly represent the "essence" of the firm and its lawyers? and 2) does it become one and the same with the firm through a structured program to internalize it and externalize it?

Without buy-in and commitment to the branding process from within the firm, a brand effort will never surmount its association as an unsubstantive effort.

Within the growing and "real" law firm brands in the marketplace today, their substantive mettle is impressive. As their hallmarks, they boast buy-in from managing and marketing partners, new operating credos for firms, enhanced internal morale and a clearer sense of direction. A brand will also provide the foundation for firms, either expressly or by implication, to charge higher rates for services rendered. For many firms, the opportunity to change their "value proposition" pays for the brand process many times over.

For all the positive attributes a brand can bring (i.e. increased morale, stronger market presence, higher billing rates, etc.), it will, as we have suggested earlier, raise a firm's most complex issues.

Attorney Time and Activities

A common myth in the legal community is that marketing is the series of activities that "marketing people" handle while attorneys go about the valuable business of billing time and serving clients. More sophisticated lawyers understand, of course, that good marketing and good lawyering are the same thing.

John Hellerman with Levick Strategic Communications explains, "Partners must understand that half-day meetings and lots of dollars are not all that will be necessary to develop, build and maintain their brand. Neither will they be able to build their brand by hiring the best and the brightest marketing professionals to 'build it for them.' Branding is an attitude and a feeling as much as it is a position. To execute a brand, the partnership not only has to believe in it, it has to live it."

Beyond issues of brand agreement in a firm, their must be an understanding that, with a commitment to a brand, comes a corresponding responsibility for lawyers to devote time to building the brand. Certainly, there are a number of areas in which marketing directors, managers and staff support brand activities. However, there are any number of activities that lawyers must incorporate into their work days to make the brand credible, real and effective.

For example as a result of one international firm's branding efforts, they believed that the cornerstone of their "essence" was their ability to provide an "integrated offering" to clients. Without the corresponding ability of all partners to truly provide integrated services to clients, the "brand promise" would fail. The implication for this firm has been a series of client meetings, some designed to assess client satisfaction but all created to identify whether clients actually know about the firm's service offerings. In nearly every instance thus far, when a partner talks about the services provided, clients invariably associate the firm only with the particular service it received. This has been true even where clients have had long-standing and close relationships with individual partners. As one partner remarked, "If you are meeting with a client for any reason other than this type of assessment, then the client only focuses on the work at hand. When you meet specifically to explore client service issues, then you can really hear whether a client is aware of the breadth of service we are offering."

In this scenario as in others, there is also a training implication involved. While most partners intimately understand their own practice areas and marketing initiatives, they typically don't understand the full range of services their own firms can provide. To cross market effectively as well as to "sell" the brand, all the partners in a firm need to have a full understanding of the services they can offer. Internal training sessions can help solve this issue as can communications devices such as internal newsletters and "brown bag" lunches with partners, associates and staff to talk about the types of work they are handling.

Regardless of the solution, it will mean that attorneys spend more time in non-billable marketing activities than before the brand was developed. For many firms, the issue of adding time and activities alone to lawyers' work flow can be enough to effectively stifle the brand. It is an issue that should be addressed at the outset of a branding initiative.

Negative Fall-out

Negative fall-out might be defined as the heightened and perhaps increased awareness of marketing- and compensation-related problems in a law firm. The act of branding does not actually create negative fall-out. However it may highlight or even intensify the depth of internal disagreements, while often generating possible solutions for them.

For example, most firms grapple, at some level, with unproductive practice groups and partners. Through the branding process at one 200-attorney firm, the firm's executive committee was motivated to deal with both of these issues, using the brand as their starting point.

At the outset of this firm's branding initiative, they identified one of their core issues as their inability to charge "premium" rates for certain types of legal work, including their insurance defense work. Their hope was that the brand process would lead the partnership to a more coherent understanding of how they could enhance their profitability for the future.

By identifying their "essence," they also identified their direction away from the insurance defense industry and into higher-level litigation work. According to one of the partners who participated in the process, "Our new brand provided focus for our firm. Once we understood what we didn't want to be, we could decide with clarity exactly how we could achieve our vision of the future."

With existing insurance defense lawyers, the firm developed a program by which they provided both relationship and sales training to partners in this practice group as a means of helping them attract new litigation clients. All of the training and marketing tools used the brand to assist these attorneys in communicating a clear and consistent message about the firm.

Gradually, the firm folded the more profitable areas of this practice group into a more general litigation practice area. Over an 18-month period, they also "cut loose" a significant handful of clients that were unwilling or unable to pay fees that the firm considered market rates for their services.

At other firms, issues regularly arise about specific, usually prominent, partners whose goals are at odds with the institution's long-term marketing and branding goals. At a Midwest firm with 70 professionals, this situation arose with "Bob," a partner who is a recognized expert in his field and who received a lot of personal publicity from writing a book. Unfortunately for the firm, Bob has not understood how to leverage this publicity to attract clients.

When the firm's brand was developed, all partners including Bob were tasked with new marketing responsibilities. Bob was resistant to these efforts because they were taking him away from personal efforts to promote his book.

In tandem with the development of the brand, the firm was also in the process of revising its partner compensation structure. To incent partners' work on brand-related efforts, the new compensation formula now provides direct financial rewards while changing the previous formula that promoted this particular partner's efforts in the past.

Rather than a punitive measure directed at this partner, the revised compensation structure was developed more as a means to support the new brand efforts. It did, however, have the additional effect of changing the cultural standards for marketing activities.

Even at new law firms, compensation is a significant issue in branding efforts. William Shawn, co-managing partner of the newly created international firm ShawnCoulson believes that their World Wise brand has been the cornerstone for creating their marketing plan. "Absent a compensation system which incentivizes all partners (and perhaps associates), a brand stands little chance of success. All firm lawyers must follow the brand and the marketing plan on which it rests. The brand should reflect individual attorney's practice philosophy as well as advance his or her own interests. So too must the existence of unproductive partners and their burden to the firm be addressed or such partners may well doom the brand's prospects," he explains.

"Dealing with the potentially unpleasant issues of compensation and unproductive partners are unavoidable in a successful brand implementation," Shawn adds.

Another common area of negative fall-out comes from lawyers who may not see the value of the brand in their practice area. At Washington, D.C.-based Shaw Pittman, managing partner Paul Mickey has spearheaded the development of the firm's brand as a preeminent technology firm. To describe this position, the firm uses tagline, "Where law, business and technology converge."

The "buzz" from their brand has lead to their hiring of top-flight lateral partners who approached the firm when they heard about its technology focus. "This occurred even though some of these lawyers did not work in technology-related fields," says Mickey.

Despite the many positive aspects of their brand, Mickey has had to contend with partners who don't see that the "tide rises for all boats." Addressing the concern of some practice groups that thought they would be "marginalized" by the technology focus, Mickey explained that the firm's biggest threat comes not from any practice area but from not branding the firm. "As an intellectual matter, all our lawyers understand our strategic approach. But those whose work is removed from the technology epicenter nevertheless can feel an emotional pang when their colleagues seem to get a disproportionate share of the spotlight," he says.

As a result, he believes that management's challenge is three-fold: 1) to remind lawyers regularly that they all play important roles within the firm; 2) to help them grow and develop strong reputations in their own right; and 3) to find ways for them to leverage off the dynamic growth of Shaw Pittman's technology practice.

Managing Marketing Costs and Initiatives

After a firm's new brand is duly rolled-out and accepted by the partnership, the next and most logical questions are: "Who manages it?" and "What does it mean I do?" While many law firms have effective marketing departments in place, the branding process typically raises a large issue of resource review and allocation. Most often this culminates in the hiring of additional staff or in hiring outside resources to help manage the marketing function.

In the case of one multinational firm, the development of their brand lead to the search and hiring of their first full-time marketing director. In this instance, the firm was particularly concerned about hiring a person with strategic ability as well as implementation know-how. After a four-month search, the firm hired an individual in the low six figures who had both marketing and sales experience in law and another professional services environment. Today, this person is charged with general oversight and management of the brand as well as implementation of the firm's strategic marketing plan. For a firm in existence 15 years as this one was, it was a huge leap to hire not only an in-house marketing director but to spend over six figures to attract that person.

At other firms with a marketing structure in place, the brand development process typically raises an issue of who in the marketing department has overall responsibility for brand-related efforts. Some firms, including many of the Big Five Accounting firms, hire marketing staff specifically as "brand gurus," overseeing firm wide efforts related to the brand's development and implementation on a full-time basis. Other firms, typically law firms, re-allocate marketing staff time and responsibilities so that at least one individual will be responsible for brand related activities.

One of the more tactical issues arising from brand development is consistency within a firm's identify and collateral materials. Firms are well advised to review the consistent use of typefaces, layouts, colors and graphic representations used firm wide. Many firms, even large, well-run operations fall prey to partners in disparate offices using completely different business cards. In a meeting recently, partners in a large Chicago-based firm were providing their business cards to their outside consultant when they noticed for the first time that one had an email address on it and the others did not. This disparity occurred with partners who were working in the same physical office and who participated on the same marketing committee at the firm.

As Jim Hughes, a brand builder for nearly 30 years and a collaborator with Extreme Marketing, explains, "The basis of branding is its claim of distinction; that which separates your firm from every other firm. If you cannot fulfill your claim of distinction, then your brand promise fails." Whether it is an inconsistent business card or more significantly, partners from the same firm describing their service offerings with utter disparity, the brand promise fails.

"Without a claim of distinction, you are a generic; your firm is 'Brand X' or the store brand. All of which consumers perceive as being less expensive and of lower quality," says Hughes.

Another thorny issue arising from branding is the inevitable discussion of costs involved. Contrary to some notions, creating a brand does not have to cost millions of dollars and does not have to involve advertising expenditures. The threshold issue that law firms face is how they can best bring their brand to market in a way that will be most likely to be heard by their clients and prospects.

If a firm has both the budget and the inclination to bring its brand to a mass audience, the costs will be proportionately large as will be the need for mass marketing techniques like advertising and direct mail. This said, however, we have worked with a number of law firms who have successfully communicated their brand distinctions with expenditures directed specifically at their top clients. For these firms, they use technology to identify client "buying patterns" and historical expenditures. Taking this as well as anecdotal information about a firm's "best" clients, a very targeted, cost-effective marketing program can be developed that will show specific, measurable results.

Firms can run into dangerous territory after a branding initiative by believing that once created, brand management can simply be delegated to the "marketing department" or outside consultants. When this issue arises, it is a signal of "problems" within the firm, most often partnership squabbles about their level of commitment to marketing. Firms with a commitment to marketing understand that the right ongoing mix of time, costs and activities will help the brand and the firm evolve in the marketplace. In every instance of a successful brand, it relies on a multiplicity of efforts.

Finally, a brand initiative means more activities. Robert F. Millman, marketing partner at San Francisco-based Littler Mendelson, feels that his firm's single practice area of labor and employment gives it a distinct advantage in marketing and branding itself. For lawyers to succeed in today's economic climate, Millman believes that they must participate in marketing initiatives.

Littler Mendelson has extensively marketed its brand, "The national employment and labor law firm," through such venues as advertising, putting on an annual national seminar, and creating collateral materials and marketing opportunities for partners. They also provide support to partners by developing contacts and possible opportunities with corporations, focusing on clients' as well as potential clients' service preferences. "Our firm has a common vision – we know who we are," says Millman.

Firm Leadership

If we had to select one of our five broad categories as the most important, it would be the area of leadership. Strong firm leadership is a critical factor for the success of a firm-wide branding and identity campaign.

Typically, the managing or marketing partner who can "sell" the concept of branding in the firm is a leader in the truest sense. However, we have also worked with firms where the leadership came through an individual partner who rallies the partners in a cooperative effort.

At SCA Consulting, an international management consulting company with five offices, the firm's managing partner Dan Marcus understood how leadership tied in to the firm's branding effort. "We understood that we needed to address our internal leadership issues prior to hiring our branding consultants. The firm empowered me to be the laboring oar on creating our long-term growth strategies and then developing and tying them into a marketing plan. Only when we had the leadership issues addressed were we ready to take on branding with full partnership commitment behind me."

While SCA was developing its "Worth Exploring" brand identity, it also re-structured its management function to create the roles of a Chairman and a Managing Partner. In these roles, both Managing Partner Dan Marcus and Chairman Robin Ferracone gave up significant client and billing responsibilities and, among other chores, added new marketing and brand oversight roles.

According to Jeffrey Morgan, Associate Publisher of American Lawyer Media, lack of firm commitment and leadership is the most common reason identity and branding programs fail. Morgan has worked successfully with many law and professional services firms in the branding and message development areas and advises them on their external advertising programs.

"The successful firms are almost always firms who have strong buy-in from firm management and coordinate extensively not only with the marketing director, but the marketing department as a whole," he says, while noting that branding is not for the faint of heart. "Branding is for those firms who want to be clear about who they are, how they are managed, and how they communicate their messages to the marketplace. Firms with great branding campaigns are usually marked with great leadership. With other firms, it's the proliferation of start-and-stop marketing initiatives that destroy branding and other marketing programs."

As principal of New York-based consultancy Uncommon Leadership, Carol Allen believes that leadership is especially important in today's prosperous business climate. Despite the prosperity, she sees that the competition for clients hasn't waned.

"Offering clients a clear and consistent message about what is unique and special about your firm can be very important. This message might incorporate client service issues or preferences. Creating a branding campaign that offers this type of clear message and is supported by firm leadership can be a tremendous asset," says Allen.

Unfortunately, the law firm business climate is ripe with mixed messages. "Lawyers can't be expected to simply emerge from years of a 'profits above all else' philosophy into a 'profits plus other things' mind-set without serious evidence that the 'other things' will be counted. This doesn't happen without serious leadership to take them there," Allen explains.

While it seems intuitive that firms will have strong leaders to guide them, this tends to be the exception rather than the rule. More than one firm has suffered because a partner or committee simply cannot create firm wide consensus. Yet when a decision is made and a brand put in place, the need for firm leadership becomes even more critical.

If the brand adds time and activities to every lawyer's day, then the "leaders" are being asked to assume more responsibility with being given corresponding tools. How can a lawyer be expected to literally "be" the brand and sell it to staff and clients without additional training in how to lead?

Additionally, one of the most common issues arising from branding comes from the staff. Understandably, they expect more from their "leaders" and the brand empowers them to voice their concerns. Without an understanding of how to accept this feedback and act upon it, lawyers cannot lead their firms.

The Strategic Marketing Plan

Once the brand is created, the next logical step a firm should take is the development of a strategic marketing plan. This plan will turn ideas into actionable, specific and measurable goals and objectives. An effective plan turns the more right-brained aspects of the branding process into left-brained concrete and observable accomplishments. When firms do not develop strategic marketing plans following a branding exercise, it foretells their lack of commitment to building their presence internally and externally.

Of course, there was a time when firms created strategic plans and marketing plans separately. But no longer. According to Charles A. Maddock, a principal with consulting firm Altman Weil Inc., lawyers and legal marketers clearly recognized the symbiotic relationship that exists between long-term strategy and institutional marketing. "It is hard to imagine a firm developing a strategic vision without establishing or managing its brand -- or vice versa," he says.

Certainly, as Maddock implies, it is difficult to picture a strategic marketing plan today that doesn't include management and reward systems, practice management issues, growth prospects, new practices and more.

Similarly, after Dan Marcus and Chicago-based SCA Consulting developed their "Worth Exploring" brand, they knew that a strategic marketing plan was not only the way to bring the brand to market but to pay off their growth objectives. "If we hadn't added the specificity of a strategic marketing plan, our marketing efforts would have been little more than words on a page," he says. Today, every SCA partner is held accountable to achieve the portion of the plan that he or she has created. This is their way of getting the partners to live up to their commitments.

Logically, the brand acts as the umbrella for the plan. All activities, plans and tasks should emanate from the brand's direction -- rather than the brand being a separate tactic of the plan. Shaw Pittman's Paul Mickey emphasizes this point when he says that everything his DC-based firm does, from building the web site, to reorganizing their practice groups, to managing public relations and advertising, to designing their logo, stationery, and collateral materials, depends on the consistent good judgment of his team using their brand.

In developing a strategic marketing plan, the brand process should have answered questions related to a firm's direction. However, it will raise again issues related to marketing initiatives and resources as well as attorney time.

Why Brand?

With all the issues a strategic branding process raises, why then would any firm undertake such a ritualistic cleansing?

The reasons are obvious and include differentiation, the ability to charge a premium price for your product or service, the unifying the members of your firm and creating an entity that becomes larger than its parts.

In a parity marketplace, the only real differentiating feature that any firm or company can bring to its clients is what those clients believe about the firm, product or service and their relationship with the brand. Branding at its best can help to build the equity behind and inside the law firm.