

Law Firms: How to Not Become a Commodity



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Top tier California law firms are facing the biggest financial challenge in their history: commoditization of high-end legal services and the plummeting fees that could surely follow. Some are in denial while others are working to differentiate with niche practices - but a few select firms will find high-trajectory growth in this new environment by going a step further. Their strategy? Power branding specialty practices while also publicizing the personal brands of practice leaders to defeat any threat of commoditization.

To put a face on the peril consider the crisis, which usually starts with an apologetic call from Bob Corporate at Fortune Wannabee, a 10-year seven-figures-annually client of the firm. Bob doesn't seem to be the same jovial fellow who sipped Chateau Petrus at the firm's playoff skybox when he mentions his board wants another look at last year's legal expenses.

In fact, he tells you they have asked him to put Fortune Wannabee's legal

business out for bid this year - "Just for the sake of transparency." This scenario is playing out with increasing frequency as the biggest clients are addressing a dismal economy and scrutiny from their financial people who perceive legal services as just another commodity like office space or computers.

In reality, many top tier California firms have indeed failed to differentiate themselves from one another; and thus become a commodity. They even look identical, plus or minus a Monet in the conference room or a Monique at reception, the big firms appear to buyers of corporate legal services as simply multi-floored hives of incredibly bright attorneys who are unfortunately little different from the incredibly bright attorneys next door.

Law firms aren't the first to come under the commoditization attack, and it's revealing to look at another sector: accounting. Many remember the Big Six firms. Ernst & Young, Price Waterhouse and the rest were fee-generating machines with corporate clients paying a substantial fee premium for the cachet of being audited by the biggest and best.

Then came an economic downturn and accounting industry fees were scrutinized under a magnifying glass. Corporate America discovered that auditing services, the principal revenue generator, were by definition the same at Arthur Anderson, Coopers and at any of the rest - the services were commoditized; bidding took place and Big Six partners took a bath.

The least evolved firms leaned on dispirited overstressed staff to generate literally truckloads of paperwork to justify their fees; avoiding immediate fee reductions by strategic obfuscation. This worked only temporarily of course; auditing fees had already been commoditized but while the dinosaurs were fighting a losing battle, the evolved firms were creating niche practices with specialized expertise and even spinning off consulting entities.

Large law firms, historically exempt from fee negotiations because of their status as top dogs of the professional services sector, now face their own day of reckoning. It's a defining moment for the biggest and the brightest; each firm's response to the broad effort to commoditize legal services will decide the rankings, if not survival, of California's top firms in the coming decade.

It's the biggest of big stakes games - competing for full representation of immense corporations with five-year retainer agreements, securities plays involving hundreds of millions, complex cases with a half billion or more on the line, M&A, environmental, Indian gaming, oil and gas, and the usual high dollar others.

The play now is to send Bob Corporate back to his board with a message: the firm is uniquely able to address Fortune's very specific requirements with specialist teams; their value to Fortune is immeasurable and therefore, not appropriate to put out for bid like a low-mileage Volvo on eBay. But firm management must give Bob ammunition so he can sell the board and it has to be real.

Many firms are already responding to the commoditization threat by launching a differentiation strategy through creating niche practices.

The failing strategy, followed by too many, is to simply put a list of 100 "specialties" on the Web site and print a few thousand glossy brochures so clients and prospects can see the commitment to regulatory litigation, patent litigation, and real estate workouts. One member will likely wear several specialty hats and associates are rotated from one practice to the next like so many commoditized, albeit talented, clones.

A winning strategy, followed by some, which are easy to identify because they now retain your firm's former clients, is to create real niche services. In this scenario a commitment is made to creating, branding, and growing a specialty practice with the goal of creating a sub-practice worthy of a top tier firm and taking a large share of that type of business from other firms.

Those that do create specifically branded and well-publicized specialty practices eliminate the threat of commoditization and typically have value-billing opportunities well beyond the norm. They attract business because prospective clients can tell when a specialty practice is a bona fide niche effort supported by the best and brightest of that field.

The limitation on all this starts to show when most of the top firms are differentiating by creating the same niches, which suddenly is not differentiation at all - and this is happening across dozens of firms today. While the effort will duck the commoditization bullet, at least temporarily, it is not a lasting and truly winning solution; it's just step one. At best, your firm can claim to be "one of the best"; a very good thing, but would it not be excellent to take down the number one spot in each of many niches? Let's look at how to leap past the competition.

All firms obsess over their brand; protect it at all costs and spend a fortune to maintain and enhance it. More evolved firms also build independent but consistent sub-brands with their specialty practices but few, if any, are taking a third step that could assure they completely own that specialty nationally or worldwide until 2020.

What are they missing? They are not branding and publicizing the specialty practice leaders. Here is why that is important: top tier firms all get a shot at a pool of high-end legal business, simply because they are big. However, when selections are made it is people selecting people and here is where only a handful are differentiating.

All big firms have credible, articulate, and charming partners they trot out to close the deals. An ex-Ambassador, former Under Secretary, or recently privatized SEC insider warmly shares the firm's story and their excitement at partnering with such an important client.

But, what trumps such a team? A relevant specialty practice head with a recent book deal, labeled by the press as "the best of the best" (if not "America's Scariest IP Lawyer"), who the prospective client heard keynoting an important industry conference last month. That person is of immeasurable value to the firm as the well publicized and compellingly branded face of a well-branded niche practice. That person will win clients for the specialty and open the door for broader firm representation.

The most successful firms of the future will have many niche practices and they will be headed by just such people. No one will ever tell "America's Scariest IP Lawyer" her services are a commodity that should be competitively bid. Powerful personal branding and strategic publicity for practice heads is the ultimate differentiator and makes commoditization impossible.

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