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Seeing Is Convincing

BY TOM McNICHOL

Don't tell Rick Kraemer that a picture is worth a thousand words. To Kraemer, a picture—the right picture—can be worth a billion dollars.  Kraemer is founder and president of Executive Presentations, a Los Angeles-based firm that has provided the courtroom graphics behind some of the biggest awards around—including last year's \$4.8 billion

global settlement with Merck, the makers of the drug Vioxx; a \$3 billion award against Phillip Morris in 2001; and a \$4.9 billion settlement with General Motors in 1999.

Kraemer has been called “The Man with the Billion-Dollar Boards” for his firm's knack in creating convincing graphics for lawyers working big-money cases. But no matter what the stakes are, he says, courtroom graphics—everything from interactive Flash time lines to 3-D animations—are an essential tool in jury trials, almost as important as the attorney presenting the case.

“In courtrooms today, jurors are viewing the technology as the advocate, just as much as the silver-tongued lawyer,” says Kraemer.

Kraemer founded Executive Presentations in 1986, after being laid off as a salesperson for a computer graphics company. He holds an MBA, and when it comes to packaging evidence, he isn't bashful about taking a marketing approach.

“I don't know what the legal arguments are in most of these cases, but I know what sells,” he says. “It's got to be entertaining for jurors. I've sat and watched jurors listening to a lawyer who's just talking without any visuals and without a plan, and they just don't pay attention.”

Effective courtroom graphics aren't just pretty pictures: The best technological presentations speak powerfully to jurors on both the rational and emotional levels. Here are some tips from the experts about using visual technology in the courtroom to influence jurors.

THINK VISUALLY, NOT VERBALLY

“Lawyers live in word land, and it's critical to be able to step out of that and think visually,” says Chris Ritter, an attorney and chief of visual trial

strategy at The Focal Point, an Oakland-based firm specializing in trial graphics and strategy. Ritter wrote the book on trial graphics, or at least one of the leading ones—*Creating Winning Trial Strategies and Graphics*, published by the American Bar Association (2005).

The best visuals often are metaphors or analogies

drawn from everyday life, images that resonate with practically every juror. For one criminal fraud case, Focal Point helped illustrate the famous conveyor-belt scene from an *I Love Lucy* episode to drive home the point that the defendant had long tried to keep up with the fraud until he became overwhelmed by the speed of events. In another case alleging race discrimination, the firm used the analogy of two ordinary household keys to illustrate

the legal distinction between identical and equivalent: The two keys aren't identical, but if they open the same door, they're equivalent.

Effective visuals such as these come out of a conscious process of rethinking aspects of a case in visual terms and coming up with vivid analogies. Thinking visually rather than verbally lets attorneys speak to jurors on multiple levels, which is the way people process information and make sense of the world.

FLASH IS NO FLASH IN THE PAN

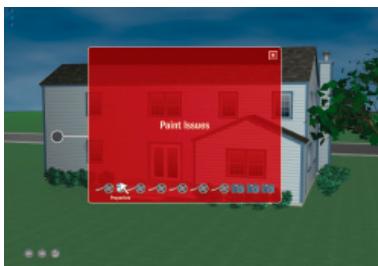
If any single technology is revolutionizing courtroom graphics, it's Adobe Flash. In simple terms, Flash is the technology that lets you maneuver and interact with a Web page, allowing you to click on a link to reach another page, pull down a menu, display a document, or launch a video. Increasingly, attorneys are turning to Flash presentations to explain evidence to jurors, particularly in complex disputes such as patent cases. Flash gives lawyers maximum flexibility in how they present a case to jurors. Lawyers can leave out portions of a presentation, show items out of order, or choose how extensively they want to explain certain elements of a case. Flash-enabled time lines have become especially popular; these can be embedded with scanned documents, photos, videos, and animations that further explain key events. By contrast, the widely used PowerPoint presentations essentially lock an attorney into rolling out a case in a fixed, linear fashion: slide 1, followed by slide 2, and so on.

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“The best thing about Flash, besides being technically cool, is that it really forces lawyers to think about what’s important in the case and what’s not,” says Ritter. “For a Flash presentation to work effectively, a lawyer has to sit down for a long time thinking about what subjects connect to one another.”

USE GRAPHICS TO CONVEY EMOTION

The best courtroom graphics don’t just convey the facts of a case, they drive home the emotional impact those details have on real people. Take, for example, a time line Kraemer’s Executive Presentations once created for a personal injury case. The plaintiff’s hand had been trapped and severely damaged in a machine, which allegedly lacked a vital safety feature despite repeated warnings to the manufacturer. The time line was drawn as a descending graph, symbolically implying the inevitable consequences of unheeded safety warnings. The moment of injury was noted with a jagged, blood red backdrop, suggesting danger, injury, and pain. The time line included both photographs of the plaintiff’s mangled hand and scans of the relevant safety documents, tying together the injury and the ignored warnings.



An interactive Flash presentation by The Focal Point illustrates various construction defects.

The resulting visual was not merely a chronology of events; it was an appeal to the jurors’ emotions and sense of fairness, a plea for them to right the wrong shown in the seemingly objective time line.

“You have to use graphics to market the facts,” says Kraemer. “A lawyer is really nothing more than a salesperson for the law.”

THE WHITEBOARD IS NOT DEAD

Despite all of the high-tech bells and whistles available to attorneys—Flash, 3-D animation, high-definition

video—the humble whiteboard can sometimes still be the best tool for communicating with jurors. When Focal Point assisted the defense in basketball star Kobe Bryant’s prosecution on sexual-assault charges, it had Bryant’s lead attorney, Pamela Mackey, draw on a whiteboard to present arguments.

“The whiteboard can be an incredibly powerful tool in the hands of the right attorney,” says Ritter. “What’s amazing is that when you’re up there at a whiteboard, you’re perceived as a teacher. And as a result, you develop a real credibility with the jury that you might not otherwise have.”

Mackey used the whiteboard to show where various individuals in the Bryant case were located at the time of the alleged crime and how they reacted. The low-key, almost casual approach had the appearance of being a spontaneous recitation of the facts, even though the presentation had been carefully planned out ahead of time. In the end, the criminal case against Bryant was dismissed.

DON’T SELF-CENSOR TOO MUCH

Even though judges and juries have become increasingly accustomed to technology in their lives, some

TECHNICALITIES

lawyers—especially veteran attorneys—can be timid when it comes to devising compelling courtroom graphics.

“I think lawyers do too much self-censoring when it comes to graphics these days,” says Ritter. “We sometimes think, ‘Maybe the judge will let me use that in closing, but there’s no way he’ll let me use that in an opening statement.’ But I’m increasingly amazed at the discretion judges extend to graphics, as long as they help the jury understand and process the facts of a case.”

In one recent case Focal Point worked on, an expert witness was to testify that the defendant’s dubious method of accounting was akin to someone selling a whole cookie for 50 cents, then eating half of the cookie and offering it for a dollar. So Focal Point created large illustrations of a whole cookie and a half-eaten cookie, which were used throughout the trial—even in the opening statement. “That’s something that never would have gotten in opening statements 20 years ago,” Ritter notes. The lesson: Sometimes graphics can get away with being more provocative than the attorney presenting them could.

TECHNOLOGY CUTS BOTH WAYS

When it comes to lawyers and courtroom graphics, Ritter says, he often runs across two extremes. At one end of the spectrum are tech-savvy attorneys who are determined to throw as much money as they can at producing high-end graphics, while paying scant attention to their effectiveness. And at the other extreme are lawyers who don’t even consider using graphics because they think they can’t afford them.

“A badly conceived and executed graphic shown with expensive equipment is still a bad graphic,” Ritter says. “And some of the best graphics cost just \$1.50 to do—a blackboard and some chalk.”

Either way, money or a lack of it is no excuse for attorneys not to think visually: It almost always helps your case, even if you never create an actual graphic. **CL**