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STRATEGIC IDENTITY AND THE BRANDING OF LAW SCHOOLS

American Association of Law Schools
Section on Pre-Legal Education and Admission to Law School
Co-sponsored by the Section on Institutional Advancement

Thursday, January 6, 2005

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What is a Strategic Identity

A law school's strategic identity goes to the core of a school's reputation because the identity defines the image that the school's various contingencies have in mind when they think of the school. Every institution has a reputation. Absent an ongoing plan to build that reputation, a school has little opportunity to shape that reputation and identity. By adopting a strategic identity plan, the school has the potential to shape its identity and improve its reputation. Building that image —"building the brand"—follows the choice of the strategic identity that the school wants to create. Since every school has a reputation, the absence of a strategic identity plan will result in other forces defining the reputation of the school.

Examples - Several law schools have successfully created clear, coherent, and compelling strategic identities.

- Public interest law: Northeastern
- Law and economics: George Mason
- High tech practice: Chicago-Kent
- Litigation: Houston
- Environmental law: Vermont
- ADR: Hamline

Strategic identities can be fashioned from a focus on legal subject matter (as with Vermont), on the legal process (Hamline), on a legal theory (George Mason), on a political ideology (Northeastern), or on methods of delivering legal services (Chicago-Kent). Within those five categories lie countless opportunities to build a distinctive identity, and there are no doubt other creative means of categorization.

A law school's brand combines the school's faculty and curriculum with its unique environment, community, geography, university, and other external support. Much of this begins with the students' experiences, including the on-campus aspects of student-faculty interaction, extracurricular activities, campus life, housing, and geographic factors. A school's location has a large impact on the school's identity, as does its alumni, and associations with other institutions.

Together, the combination of what law schools offer and how they offer their program combine to define the identity of that institution. Strong positive identities lead to the enhanced professional reputation among academics or the practicing bar that is roughly calculated in the *U.S. News and World Report* statistics.

Why an Identity Strategy Matters

Without developing a strategic identity, others will control the law school's brand. The law school's university, its alumni or its competitors will fill the information gap, serving as the source for the school's brand and identity. Only through a strategic identity process will the school drive its message.

Unfortunately, the greatest challenge to building a brand may be the time it takes to shape the public perception about a law school. *U.S News and World Report* rankings are strongly influenced by academic and non-academic reputational scores. Not only do lawyers affect the rankings, alumni and lawyers are a significant source of information about law schools for prospective students. Lawyers' viewpoints and experience dictates a great deal of a school's identity. Unfortunately, alumni rely heavily on their own experience – sometimes based on memories decades out of date. Other lawyers rely on even more limited interaction with the law school. Improving reputation requires convincing lawyers and alumni of the improvements at the school, a slow challenging task. This also helps explain why the public's perceptions may not coincide with the reality at the schools. Given the slow process of educating the alumni and legal community, a strategic identity plan must be a long-term process.

By identifying the intended identity of the law school and marshalling the school's resources around that identity, a law school will have much more success enhancing its reputation and selling its brand.

Three Methods for Building Reputation

Law school reputation is typically established in one of three ways, (i) the elite university model, (ii) the unitary curriculum model, or (iii) a center-based model. First, in the elite university model, the law school reputation may be part of a highly endowed, nationally recognized research institution and benefit from the perception that the law school enjoys the same standards as does the university as a whole. Prior to the last fifteen years, such law schools relied almost exclusively on university development for the expansion of endowments. Only in the 1990's have law schools like Harvard and Stanford aggressively operated fundraising campaigns. These schools rely on a theme of universal success and need not trumpet any one substantive area.

The second reputation strategy is the unitary curriculum model. In this model, schools identify a single academic discipline under which all resources, hiring and promotion are focused and the entire curriculum is infused with the particular programmatic approach. The unitary model has been successful at law schools such as George Mason. For example, George Mason's "Law & Economics" model has a law-and-economics analysis in each first year course; each faculty member is expected to do at least some of his or her scholarship in the subject area; and marketing focuses primarily on that topic. The unitary model creates the greatest market differentiation. If the selected market is relevant, it may have a powerful impact on the school and its reputation. Faculty members can easily cite colleagues' scholarship, thus increasing scholarly exposure and further reinforcing the impact of such a program. The drawback is that the unitary model provides a rather limited tent for existing faculty and risks becoming out-of-favor if trends make the selected focus less central to the legal academy. As a result, the risk of selecting the wrong market niche is potentially quite high.

The third strategy is to develop a traditional law school curriculum for the base courses and a series of centers or institutes into which the majority of the elective curriculum and faculty scholarship is focused. This is best exemplified by NYU, which runs a large number of nationally-recognized centers and has used its centers to attract faculty from Harvard and Columbia. Each center is distinct from the other centers at the law school and serves to organize advanced curriculum, faculty scholarship, fundraising opportunities, speakers, and interdisciplinary programs. Because each center is distinct, students and the public view these as additions to the core law school program. The differentiation between competitor law schools is not as great as in the unitary model, but this allows the law school to operate as a regional law school and remain attractive to students who are not otherwise drawn to a particular center's strengths. As a result, some portion of the student body is attracted because of the program in a particular center while others are attracted because of the local school's quality and geography.

Operating a single center tends not to create a successful strategic identity. A single center is too narrow to help organize an entire curriculum and many constituencies will view the single center as a failed unitary approach to the school. As a result, a school using either the unitary model or the centers model must invest with sufficient commitment that the identity of the school can be created and marketed.

Three Keys for Building a Strategy

Like any business, law schools need a fundamental development strategy. In Michael E. Porter's Harvard Business Review article, "*What Is Strategy?*," he identifies three key criteria for such development:

1. Strategy is the creation of a unique and valuable position, involving a different set of activities.
2. Strategy requires you to make trade-offs in competing — to choose what not to do.
3. Strategy involves creating "fit" among a company's activities.

1. Strategy is the creation of a unique and valuable position to differentiate the law school from its prime competitors, recognizing that success will change which schools will overlap as time goes by. The attributes of uniqueness and value are combined in the concept of relevance. The law school must provide value to its constituencies, but to be truly relevant, that value must not be easily duplicated elsewhere. As the activities of the law school become increasingly relevant to its constituencies, the law school becomes more successful. Uniqueness alone is insufficient. A law school could choose to control the field in maritime law, canonical law, or many other legitimate fields but be relevant to a community too small to have a positive impact on the school's reputation. Conversely, value alone is not enough. Most schools have increased their intellectual property, criminal law, and alternative dispute resolution offerings in recent years,

but such changes alone will not insure relevance because they merely maintain the status quo – keeping up with competitors. As a result, these changes may not provide any differentiation. Though changes to reflect the needs of law school graduates are necessary, they are not changes for the purpose of identity building.

2. Strategy requires that the law school makes trade-offs, being willing to give up investments in historically important programs. Often, choosing what not to do can be the most difficult aspect of the planning process. The planning process includes both the gathering of the possible alternatives and the selection of final choices. In some situations, this may be the investment of new resources, but in most it also requires the realignment of existing resources. As discussed in the "Process Guide" section below, law school resources including funding, but also include limited resources such as elective curricula opportunities, programming and symposia events, faculty assignments and course releases, and the marketing, publications, and advertising focus. Unless a school is willing to realign resources, then the planning process will be viewed as largely futile.

3. Strategy involves creating "fit" among a school's activities. The best-fit is a combination of feasibility given the geographic, economic, political, and institutional situation of the school. Fitting the program is the process of translating the theoretically most relevant programs into the best opportunity for each particular law school. The fit criteria can account for the opportunity created by an enthusiastic faculty member to pioneer an area of interest or an alumni group to invest in a specialty program. The key to understanding this criterion is that it does not demand that any new strategy fit within the existing activities. Rather, fit is that the overall strategic identity is coherent and feasible given the external constraints and institutional realities. The fit analysis should include an assessment of what else needs to change within the institution to achieve coherence and consistency. Thus, fit is an assessment of not only any new programs but a reassessment of all existing programs.

Implementing the Planning

These three keys identified by Michael Porter help frame the structure of a strategic identity process for the law school.

First, identify where the law school can improve value to the key constituencies:

- Who are the key constituencies – applicants, current students, faculty and staff, employers, alumni, donors, the parent university, and affiliated institutions?
- What are the measures that demonstrate relevance – increased applications, decreased unfunded tuition discounts and unfunded merit scholarships, increased selectivity, increased placement, improved median salary; increased faculty and staff hiring, increased scholarly placement, productivity or citations; increased alumni participation, and improved endowment?

Second, assess what opportunities exist that may improve the uniqueness of the activity:

- What are the market conditions for the school, geographic opportunities, demographic opportunities, and unmet legal needs?
- What is the identity and position of the university in a way that assists the law school?
- What opportunities exist because of particular alumni, programs, and participants?

Third, determine what currently works best and what is less effective by assessing all current activities:

- What resources are available?
- Where discretionary resources are being used currently?
- Which programs provide maximum benefit in terms of the identified constituencies?
- What are the opportunity costs associated with each program, event, alliance, and association?

Fourth, given the opportunities that generate the most value, uniqueness, and maximum benefit, what changes are needed to make the strategy fit to operate in a coherent fashion:

- For each new possible strategy, how many changes are needed?
- What budgetary and non-budgetary requirements (new hires, buildings, infrastructure) are needed for each potential strategy?
- What effect do the unchangeable attributes (geography, tenured faculty, ABA requirements, etc.) have on each potential strategy?
- Which strategy provides the institutionally correct balance of changes to create the best opportunity, given the unchangeable attributes, the greatest relevance, and the resources needed to succeed?

Properly formulated, the final question requires a balance between competing strategic choices to find the best fit – a strategy that takes into account both systems that will not change and the aspects of the institution that will benefit from the change; a balance that must be measured against the needs of the key constituencies.

Process Guides for Identity Planning

There appears to be some simple rules-of-thumb for the strategy process. Gary Ryan Blair's *10 Commandments of Goal Setting,* (available at http://www.goalsguy.com/Knowledge/t_01_commandments.html) provides some helpful insights to the process. When compared with the management book de jour, GOOD TO GREAT: WHY SOME COMPANIES MAKE THE LEAP... AND OTHERS DON'T, by Jim Collins, a few central themes emerge for academic identity planning:

Be Inclusive – every constituency needs to be part of the planning process, so that all perspectives are heard. Effective planning is a two step process of gathering ideas and then culling those ideas to the one that best fits the multifaceted objective of the institution. The gathering process must involve faculty, staff, university administration, alumni, donors, bench, bar, and other constituencies. This adds credibility to the final decision and support for implementation.

Be Explicit – the criteria for selection of an identity will dictate that identity. If the goal is to fit the law school within the university identity then the goal will be quite different than if the goal is to attract more highly published academic researchers, to place students in the profession more effectively, or to support the local bar. Each goal will drive the investment and should define the measures of success.

Be Decisive – the culling of ideas into a final identity focused on an explicit goal will require that most ideas are rejected. Law schools have limited discretionary resources in the form of elective curricula, symposia, faculty assignments, funding, and marketing materials. The majority of these resources must reinforce the identity or no identity will be created.

Be an Advocate (the Personification effect) – recognize that building the activities needed for a new identity requires a very strong personal commitment by a champion. Academic programs live (and die) because key faculty personify the program. Collins points out that business leaders of the "great" companies he identified were "humble." Humble is not the relevant issue. Instead, the relevant trait is that the champions put the goal before personal aggrandizement. The champion for creating an identity must include the law school dean and someone else critical to the goal, whether that is a faculty member, development officer, or other key promoter. Without the dean's support, the goal cannot become the law school identity; with only the dean, the goal will not be institutionally adopted – it must be a partnership. The advocates must build a partnership with others, so there is concerted action towards the goal and hostile responses to the goal by others is reduced or eliminated.

Be Rigorous (Measures Matter) – plans alone mean nothing, and unassessed academic projects are doomed to a perpetual state of partial support and quiet derision. This cycle can be broken with clear use of measures designed to chart the changes wrought by the identity strategy from year to year. The school must carefully analyze the criteria measured and adapt its strategy accordingly. By identifying the key measures and rigorously assessing the school against those measures, a school can determine whether a program is working and best allocate resources. Without rigorous assessment, the innovation can never succeed or fail. Anecdotes and war-stories do not replace meaningful assessment.

Be Patient – identity development is a byproduct of the process, not the planning process or implementation process. Schools should take a long-term view of shaping behavior of constituents, with relentless focus on the goals and patience to let the culture integrate those changes. Assessment will show the change over time, which is more important to identity change than arbitrary benchmarks.

Conclusion

Every law school is in the constant business of maintaining its reputation and updating its identity with alumni, bar leaders, and prospective students. The suggestions of this brief outline, stress the need to make that process intentional, systematic, and designed for the long term.

By identifying the intended identity of the law school and then marshalling the school's resources of the law school around that identity, a law school will have much more success building its brand and enhancing its reputation. Without taking such steps, the law school's university, its alumni or its competitors will be the source from which the school's brand will be defined. Only through a strategic identity process will the school drive its message.