

Rules for Internet advertising, marketing

By Shawn M. Lindsay

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The Internet is connecting workers, markets, advertisers and contractors from all around the world. Personally, I am on Skype, Twitter, LinkedIn and Facebook nearly every day visiting with clients and friends worldwide. What I find most interesting is the increase in microtargeted electronic advertising by both domestic and international organizations. As you can imagine, a fresh set of legal issues comes with this electronic globalization.

With respect to advertising on the Internet, keep in mind that many of the same rules that apply to non-Internet ads also apply to Internet ads. So, “unfair or deceptive acts or practices” are still prohibited. Also, if you have an Internet advertisement that makes an express or implied claim that may be misleading without certain qualifying information, you must disclose that qualifying information. These disclosures must be presented “clearly and conspicuously.” Here is a summary of best practices to consider when evaluating whether your disclosure is clear and conspicuous:

- When making a disclosure, place the disclosure near the triggering claim.
- Always prominently display disclosures so they are noticeable to consumers. Use the same type, color and graphic treatment for the disclosure as used for the claim.
- Make sure that text, graphics, sounds, hyperlinks, etc., don’t distract the consumers’ attention from disclosures.
- Make sure to repeat disclosures on lengthy websites (sometimes, consumers enter Websites via links other than the home page).
- When using audio disclosures, present them at a volume and in a cadence that consumers can hear and understand. Also, visual disclosures should appear for a duration sufficient for consumers to notice, read and understand the disclosures.

The most important rule to follow is to have fun. Intuitive marketers and advertisers help lawyers expand our wardrobe of gray colors.

Shawn M. Lindsay, an attorney at Lane Powell and member of the firm’s Intellectual Property and Business Practice Groups, focuses his practice on representing clients with a wide variety of intellectual property needs, including representation in software licensing, Internet, domain names, establishing IP rights, acquiring and transferring IP rights, preserving IP rights, and enforcing and defending IP rights. He can be reached at 503-778-2124 or at lindsay@lanepowell.com.