

New Jersey Follows NY On Choice of Domain Names

BY LAZAR EMANUEL

The New Jersey Committee on Attorney Advertising has agreed with New York City Ethics Opinion 20031 that a law firm may use a domain name for its web site that does not include or embody the firm's name or the name of any individual lawyer. NYC Ethics Opinion 200301 considered two fundamental questions: 1) May a law firm's domain name omit any reference to the law firm's name? 2) If the domain name does not include any element of the law firm's name, may the law firm ethically advertise its services by reference to the domain name rather than the firm name?

DR 2102 (B) forbids a law firm to practice under a trade name, any name that is misleading as to the identity of the lawyers practicing under that name, or a firm name containing names other than those of lawyers in the firm. Several New York opinions have construed this rule to prohibit the use of trade names. However, the Committee said, the mere designation of a web site domain name does not mean that the law firm is practicing under that name.

Therefore, a lawyer or law firm may use a domain name that does not include the names of its lawyers, but under the following conditions:

- (1) The web site must clearly and conspicuously identify the law firm by listing its name, address and telephone number. (The New Jersey Committee directed that these should appear on the home page.) The law firm must not "engage in the practice of law using the domain name."
- (2) The domain name must comply with DR 2101 (A), which forbids "any public communication or communication to a prospective client containing statements or claims that are false, deceptive or misleading."
- (3) The domain name must not imply any special expertise or competence, or suggest a particular result. Such names as "bigverdict.com" or "bigjudgment.com" are frowned upon. Also, the domain names should not employ puffery or make statements that cannot be verified objectively. Names such as "bestlawyer.com", "greatattorney.com", or "personalinjuryexpert.com", which seek to promote the lawyer's special skill or talent, should be considered misleading.

A domain name (e.g., "NewYorklawyer.com") which satisfied these conditions could be publicized in advertising "so long as the domain name is used to identify a website rather than as a substitute identifier for the firm." It is permissible to refer to the domain name to direct individuals to the website, but it is "not permissible to refer to the services offered by 'New York lawyer' or otherwise to replace the law firm's name with its domain name in describing itself, its services or its personnel."