

The Attorney Author: Writing to Grow Your Practice

By Steve Gillen



The e-mail popped up on my desktop a little before 9 a.m. on a Thursday morning. It was sent via LinkedIn and invited me to connect with the newly hired head of digital distribution for a San Francisco based media company. His message said that he had been hired to start up a new division to be located in New York. This new division would be focused on digital distribution of proprietary content via subscription. He needed to develop contracts to use with his content providers, terms of use for his new website, and click-through agreements for subscribers. He'd seen online some of the articles I had written for a relevant trade magazine and wanted to set up a time to talk about whether I might be available to help with this work.

Fast forward two years later and this new business has become a steady and ever growing client; a client with connections on both coasts and nothing in between. A client I would never have met, let alone landed, but for the seeds of content I had planted some three to four years ago in the searchable web.

This same story has been repeated numerous times since. Sometimes the client finds me via a web search. Sometimes they find me when they read an article I've written for a trade magazine. Sometimes it's a chapter in a book that leads them to me.

Where Does this Content Come from?

In this case, the original article was born of some research on a subject I had done for a client. That research was expanded for a talk for a professional association, adapted further into an introductory piece to break into a trade magazine, which has since expanded into more than three dozen articles over a six-year span and a significant and persistent presence in front of a national audience of potential clients. This, in turn, resulted in an invitation to address the New York Chapter of the Copyright Society of the United States. Two of the articles wound up as chapters in two professional books and, as I write this, portions of all of this body of work are being consolidated into a forthcoming book.

In another case, I was responding to a cease and desist letter on behalf of a client when it occurred to me that I should write a piece on how a business person should proceed on receipt of a cease and desist – what it will probably look like, what they should do first, what they should do next, and what they should probably never do. Two and a half years after this piece was first published, I got a call from a London-based business that was selling product in the U.S. and had received such a letter. That business found me via the article and engaged me to represent them. In this way, each article is a little like an annuity . . . you plant it once and it continues to work for you indefinitely thereafter.

This would be a lot of work if it were all created from a blank sheet of paper, one article or chapter at a time. But that's not how it happens most of the time. More often than not, any given article may be adapted from some bit of research or work product for a paying client; it may have been spun out of a class lecture or a professional talk; it may have come from a client service piece; or it may have come from work done for a bar association committee or task force. On those occasions, when the raw material doesn't come from some other bit of already existing work product, it's motivated by a perceived need, by plain old curiosity, or by the opportunity to fill the occasional gap in a billable workload.

Where Can It Go?

A lot of lawyers write for other lawyers. If you're writing for an audience of generalists or a highly specialized niche, this can be a productive source of referral business. If your audience is composed of other lawyers with practices like yours, it can be a professionally satisfying contribution to the literature. It can also be an effective way of capturing and archiving work product for re-purposing later.

Lawyers who are writing primarily to generate new business know that the most fertile ground is with trade magazines and

other communication vehicles intended for a lay audience of potential clients – a target-rich environment, as they say. It's a different style of writing to be sure. You must capture interest early and hold attention for the duration. And you must be able to write in a language that lay persons can access, with frequent anchors to common experiences for credibility. But this is not a bad skill to hone in any event. (See side bar for more specific suggestions.)

How Does It Help?

Regardless of where you publish first, or where it goes from there, each published article adds to your credibility on the subject and adds to your ready cache of client-education and client-service material. And as I suggested in the opening vignette, an article can become a speech, can become a class lecture, can become a CLE presentation or a webinar, can become a chapter, and enough of them together can be re-purposed as a book. Planted in a print magazine, your work reaches a universe of potential clients outside your normal circle for the circulation life of the issue — a few months to a year, or indefinitely if it appears also on a companion website. In a printed book, it will continue to work for you for as long as there are libraries and book stores (and maybe longer via Google Books).

What Should I Watch Out for?

There is very little downside here. If you litigate, you will have to be careful about, and will want to be sure to remember, what you say about any given subject. Likewise if you do, or hope to do, expert work (and you will have to keep a running ten-year list of all your publications in order to comply with the disclosure obligations of Federal Rule of Evidence 26).

In order to protect your ability to make maximum use out of the body of work you develop, you should be sure to grant any third-party publisher only non-exclusive rights to publish your work. Many will ask for an assignment of the copyrights in your work, which would preclude you from re-publishing it, re-purposing or adapting it, or even

POTENTIAL PUBLISHERS FOR YOUR WORK

Metro Bar

Your own Cincinnati Bar Association has a magazine, the *CBA Report*, which is published 12 times per year and has a circulation of 4,000. It accepts feature articles no longer than 1,800 words on topics of general interest to the Greater Cincinnati legal community.

Send inquiries or submissions to: Aris Yowell, director of communications, at amyowell@cincybar.org or review author guidelines at <http://www.cincybar.org/news-resources/cba-report/editorial-guidelines.php>

State Bar

The Ohio State Bar Association also has a magazine, *Ohio Lawyer*, published six times per year with a circulation of about 30,000. It accepts articles on subjects of interest to Ohio lawyers.

Send inquiries or submissions to: Nina Corbut, editor, Ohio Lawyer, Ohio State Bar Association, P.O. Box 16562, Columbus, OH 43216-6562 or e-mail ncorbut@ohiobar.org. For more information: <https://www.ohiobar.org/NewsAndPublications/Pages/StaticPage-1350.aspx>

American Bar Association

The book publishing program of the ABA Section of Intellectual Property Law (ABA-IPL) has over 30 titles in its portfolio and adds four to eight new books each year. The titles range from a short monograph intended for client education, to a 150-page paperback on copyright remedies, to an extensive, annually-supplemented treatise on patent litigation strategies. Unlike the other groups mentioned here, ABA-IPL's book program offers royalties at commercial market rates.

For more information or assistance with an ABA-IPL proposal, contact Steve Gillen at sgillen@whe-law.com or (513) 707-0470.

Trade and Professional Magazines

There are about 5,000 U.S. trade magazines, covering everything from book publishing (*Independent*, a monthly publication of the Independent Book Publishers Association) to materials science (*Advanced Materials & Processes*, an ASM International Publication) to financial advising (*Research*, an ALM publication). Find one or more that targets your audience by doing an online search or checking periodical directories at your local library. Look for an affiliated website, scan a few issues of the magazine to see what they cover, check for writer's guidelines on the website, or just query the editor with a short description of your article idea.

posting it on your own website. If you are writing for free; however, most publishers will accept a non-exclusive grant or, at worst, ask for first serial rights (the right to publish your work for the first time in a serial publication intended for a specified language and a specified territory, together with 30, 60, or 90 days of embargo on other uses).

It's all good, as they say. Get out there and get writing.

Gillen is a partner at Wood Herron & Evans, where he concentrates his practice in publishing, media, and copyrights. He is also chair of the Books Editorial Board of the American Bar Association Section of Intellectual Property Law. Write or call him if you have an idea for a book at sgillen@whe-law.com or (513) 707-0470.