

Intellectual Property

The newsletter of the Illinois State Bar Association's Section on Intellectual Property Law

Reflections From the Trenches of a New Law Firm

BY STEVEN L. BARON

In July 2020, our law firm, Baron Harris Healey¹, celebrated its first anniversary. My friend and our intrepid newsletter editor, Dan Kegan, invited me to share reflections on the first year of a new firm whose practice is devoted in part to intellectual property law. If you like what I have to say, let me know. If you do not, please consult Mr. Kegan. He put me up to this.

Why start a law firm?

I know this may sound corny, but I blame Abraham Lincoln. More specifically, I blame my trip to the Lincoln-Herndon Law Offices in Springfield for my current predicament. I had come to Springfield in 1998 for oral argument on a case in the Illinois Supreme Court.²

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To settle my adrenaline after the argument, I walked around the streets of downtown Springfield. At the corner of 6th and Adams Streets, I noticed the store-front Lincoln-Herndon law office where Abraham Lincoln practiced law from 1843 to 1852, which has since been turned in a museum.³ It was open for touring, so I paid the modest admission and climbed the creaky stairs to the third floor. As I entered the single room that served as Lincoln's office, I saw a large partner's desk littered with a few papers standing in the middle of the room, a bookshelf along the wall and a daybed near one of the windows. That was it. I had my epiphany. Abraham Lincoln, one of the most famous (and successful) lawyers in American history, operated a law practice with three pieces of furniture. So, maybe it is not so complicated. I might not even need the daybed. Without realizing it, a seed was planted in my subconscious about the possibility of starting a law practice.

It took a long time for the seed to germinate. Before launching our firm, I practiced law in Chicago for more than thirty years, splitting my time between two established law firms⁴ I was fortunate to receive great training, mentorship and experience in lawyering, litigating, intellectual property law and media law. As I entered my fourth decade of law practice, however, my "biological clock" began to tick a little louder, and the latent idea of having my name on the door -- like Mr. Lincoln and Mr. Herndon -- emerged more prominently in my consciousness. At the end of my career, I wanted to have something to call my own. Besides, perhaps I could better serve the needs of creators and entrepreneurs by becoming one myself.

How to start a law firm?

I was comfortable with how to be a lawyer, but on the nuts and bolts of starting and operating a law firm, I learned little in the past decades. At the firms where I had worked, business cards, legal pads and monthly draft bills to clients just showed up on my desk without any concerted effort

from me. Working for and sending bills to clients had long been the ebb and flow of my professional life but managing cash flow was not. So where to start?⁵

First, if possible, find good law partners. Entrepreneurship is challenging, overwhelming and, at times, downright scary, particularly for lawyers who, as a group, tend to be risk-averse. So, it helps not to go it alone. Lincoln had William "Billy" Herndon. I was fortunate in this regard to have two talented lawyers and friends with whom I had practiced for more than a decade join me in starting our firm.⁶ It is impossible to overstate the value of practicing law with people whom you know, like and trust. Not only do we serve as daily sounding boards for each other on cases and client matters, but we also divide up the labor of running the business, which, even for a small operation, can be daunting.

Second, plan your infrastructure sensibly. Every law practice must consider physical space, information technology, practice and financial management and marketing. The good news for solo or small firm practitioners is that there are many choices available to fit the needs of an emerging law practice. We license office space in the Loop from a company that provides turn-key services to lawyers.⁷ Included in our monthly fee are phone and internet service, receptionist, and access to photocopiers, conference rooms and a café/kitchen. Paralegals are available to us on an hourly basis. In other words, our offices come equipped with everything a lawyer needs in the modern era -- except for a daybed (or, in today's parlance, a sleep pod).

Luckily for Messrs. Lincoln and Herndon, they did not have to manage email, teleconference systems, word processing, electronic document storage and a host of other information technology systems that form the backbone of modern law practice.⁸ We do. Because the firms we worked for in the past provided us with equipment and in-house technical support, we knew we would need to find competent technical support.

Again, there are choices⁹, and we chose to outsource our information technology. Our vendor purchased our computers and arranged licensing for a suite of standard office software and also provides us with a virtual help desk that we can access via phone or email. Good IT support means we can sleep at night.

Mr. Lincoln carried most of what he needed to practice law in his mind. That said, he likely did not have to keep track of his time by the tenth of the hour and send out bills once a month that detailed his work. (Imagine receiving an invoice from A. Lincoln: "Sat on daybed and thought about your case -- 0.4"). Now, in commercial and intellectual property practices, we are expected to apportion our efforts in six-minute increments. Modern practice demands we use sophisticated matter management and time tracking software. We chose Clio, which provides a robust, cloud-based platform for small, medium, and large firms.¹⁰ Clio integrates with QuickBooks, which is helpful to us and our bookkeeper. (Every law firm should have a competent bookkeeper.)

On marketing, Abraham Lincoln relied on his extraordinary skill and results as a trial lawyer to build a national reputation. Skills or not, in this era, even Abe would need a website to announce who he is, his "practice areas" and latest victories. We outsourced this task to marketing experts who could build an easy-to-navigate site and help us populate it with content that showed the world who we are.¹¹ Our marketing consultant also helped us with designing our logo, creating letterhead and developing business cards, which remain a traditional part of law firm marketing. On marketing, I cannot emphasize enough: find talented experts, listen to them, and follow their advice.

What happens to a new law firm in a pandemic?

When we launched our firm, my law partners and I did not anticipate a global pandemic taking hold in the first year of our

existence. As the economy began to shut down in mid-March 2020, the words of my late father began floating around my head: “If the Barons purchased a pumpkin patch, Halloween would be cancelled.” Would my dad’s Eeyore-like prophecy ring true for our law firm? Would we slide into oblivion before we grew out of infancy? Happily, we have not succumbed. Thanks to a dedicated and varied array of clients and a practice that spans counseling, transactions, and litigation, we have been able to remain active and busy. I have come to appreciate and be grateful that the work of the modern lawyer can be accomplished nearly anywhere where there is access to a telephone and internet connection. My partners and I easily migrated to remote work and continued to serve our clients without missing a beat. I am not sure the same would be true in the days of the Lincoln-Herndon law office.

From the standpoint of technology, an intellectual property practice is nearly pandemic proof. Long before the pandemic, the federal government created robust online interfaces that allow lawyers to prosecute trademarks, patents, and copyrights online. Although the United States Patent and

Trademark Office has relaxed some deadlines during the pandemic, the day-to-day work of accepting and processing applications and deciding trademark and patent registration disputes proceeds.

As for clients, in some instances, COVID-19 has caused entrepreneurs and businesses to enhance their efforts to create new technology or pivot their business models to aim for opportunities created by the pandemic. The American economy, even in times of great strain, continues to reward innovation. Intellectual property lawyers play a key role in helping clients identify and protect their efforts to innovate. As long as the creative spark remains alive, I believe there will be a vibrant role for intellectual property lawyers.

After our firm’s first birthday and despite the challenging times, I remain optimistic about our future. I turn once again to Mr. Lincoln. In his letter to aspiring lawyer Isham Reavis on November 5, 1855, Lincoln wrote: “*Always bear in mind that your own resolution to succeed, is more important than any other one thing. Very truly Your friend A. Lincoln.*”¹² Truer words, then or now, have never been written. ■

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1. <https://www.bhhlawfirm.com/>.
2. *Van Horne v. Muller*, 185 Ill.2d 299 (1998).
3. <https://www2.illinois.gov/dnrhistoric/Experience/Sites/Central/pages/lincoln-herndon.aspx>.
4. D’Ancona & Pflaum (now Seyfarth Shaw) and Mandell Menkes LLC.
5. The Illinois State Bar Association provides a treasure trove of resources to its members on how to open, build, manage, protect and wind down a firm. <https://www.isba.org/practicehq/open>.
6. Natalie A. Harris and Brendan H. Healey.
7. <https://amatacorp.com/frontpage/>.
8. Lincoln was said to carry legal papers around in his stove-pipe hat. Dan Abrams and David Fisher, *Lincoln’s Last Trial*, (Hanover Square Press 2018), p. 22.
9. See, e.g., Bridgepoint Technologies <https://www.mybridgepoint.com/> and Sanders Consulting <https://sandersitconsulting.com/>.
10. <https://www.clio.com/>.
11. <https://www.buildpartners.com/>.
12. <http://www.abrahamlincolnonline.org/lincoln/speeches/law.htm>.