

Trial attorney seeks compatible metaphor for successful relationship with jury.

Metaphors, the workhorses of language, pepper our everyday communications. Think of how efficiently we convey meaning with evocative figures of speech like "mortgage meltdown" or "bear market." At its core, a metaphor is a kind of analogy that helps us understand one thing in terms of another. In the legal setting, strong metaphorical comparisons enable jury and judge to comprehend arcane concepts and improve retention of key points. In complex patent litigation trials, they may be one of the most effective means at our disposal to allow jurors who aren't scientists to grasp highly technological subjects.

Metaphors not only explain, they actually define how we experience the world. Like good trial attorneys, the world's greatest storytellers are masters of the metaphor. Shakespeare and John Grisham would both agree that the courtroom is a stage, where trials play out through a metaphoric lens of combat: a team sets up a *war* room; counsel *attacks* a witness' credibility, the ultimate goal —*winning*.

When jurors (and most judges) are asked to wrap their minds around difficult technological arguments, they are forced outside their experience and their comfort zones. The metaphor brings them back in, tapping into their personal and real world experience.

Click the image to see an example of a real world metaphor that explains a complex process -->



Metaphors also take visual form, providing powerful mental models that shape reality. As we head further into a technologically complex world dominated by television and

computing, the visual takes on greater relative importance. The most powerful metaphors are no longer based on language, but on recognition of visual patterns that are perceived in emotional, rather than rational terms. Visual metaphors bring a comforting familiarity to the unknown.

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Remember that whether you are presenting to a judge or a jury, not everyone's perception is based on the same cultural and life experiences. An effective

metaphor must be familiar and easily interpreted; otherwise it only adds cognitive dissonance to your argument. But you walk a fine line: If a metaphor is too facile, there's a danger that it will be summarily rejected as an oversimplification; if it's too complex, it will only confuse. In designing an

effective visual metaphor that sheds meaning on a complex process, you may have to sacrifice accuracy for clarity. Providing too much detail highlights the trees, but hides the forest.

Many a politician who failed to rehearse a metaphor has mangled it to adverse effect, such as the legendary Dan Quayle, who said. "No matter how rough the road may be, we can and we will, never, never surrender to what is right." Understanding the underlying technology is crucial to your case, so test your metaphor in mock trial or focus group. Question your mock jurors carefully to see if they understand the technology. Don't remain wedded to your metaphor. If it hasn't made an emotional connection, you haven't fully harnessed the power of metaphor. An effective metaphor will keep you from spinning your wheels in court, and give you traction with judge and jury.



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