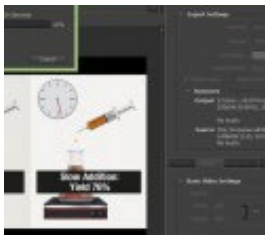


Simplify and Emphasize in Litigation Graphics

by Michael Kelleher

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(Originally published on October 28, 2013 on [Cogent Legal's blog](#))

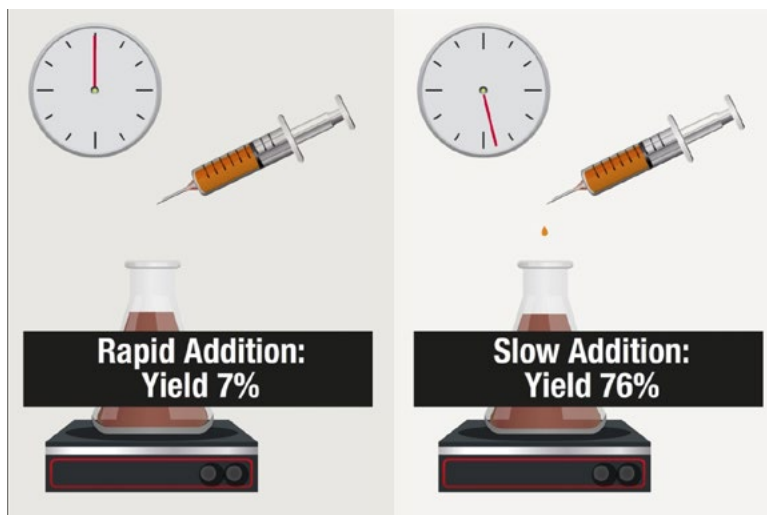


In oral argument, a litigator has very limited time—she needs to hit the high points and move on. She must communicate enough information to convince the judge or jury of her argument, yet must avoid getting mired in details that will only confuse.

Good litigation graphics can counter this time crunch by allowing an attorney to communicate clearly and quickly. The adage “a picture is worth a thousand words” reflects the truth that our brains quickly process and understand images.

To support an argument, graphics should be tightly tied to the key points of the advocate’s message. At Cogent Legal, we start the design of a litigation graphic by understanding the messages the litigator wants to convey. Our experience as trial attorneys often helps in this process—we understand legal briefing and can work with our clients to transform written arguments into oral and visual presentation. Often, we help the attorneys simplify their arguments and hone in on the most important points.

Today’s blog post reviews this design process for a hypothetical animation of a chemical synthesis for defendant’s opening argument in a patent infringement case (the case is based on a real case, but in this hypothetical, we have changed some details to protect the identity of the parties and the confidential information in that case).





The Argument and Evidence

The starting point for a litigation graphic is the message that it needs to convey. In our hypothetical case, the patent covered a pharmaceutical compound delivered in tablets. Our hypothetical client wanted to prove that the compound could be synthesized by following the procedure described in an article published years before the filing of the patent application (i.e., the article was “prior art”). This proof, that the pharmaceutical compound could be made by following the procedure in the prior art article, would make the patent invalid.

The evidence was that an expert had twice performed the synthesis described in the prior art article. In the first run, the expert had added a reactant rapidly, and had achieved a yield of 7% for the desired pharmaceutical compound. On the second run, the expert added the reactant slowly over 30 minutes (slow addition of reactants is a well-known technique to increase the yield of a synthesis). This second run resulted in a yield of 76% of the desired pharmaceutical compound.

The briefing and expert report contained many details about the two performances of the synthesis described in the prior art article (e.g., 250 milliliters of solution, 45 degrees centigrade, filtration and extraction procedures, etc.). In working with our client, we decided to simplify the argument by omitting much of this detail. Our client wanted to emphasize two key points in the argument:

- both syntheses (rapid or drop-by-drop addition) created the patented pharmaceutical compound; and
- a simple change of adding the reactant by drops over half an hour increased the yield of the compound.

Just Say No to Bullet Points

Unfortunately, some litigators would just put up a slide with two text bullet points of these two arguments, and read from the slides in court. **DO NOT DO THIS.** Bullet points bore the audience (who can read faster than you speak), and a slide of text cannot communicate as much information as a good illustration or animation can.

Choices in the Animation

Here, we created a short, simple animation to show the two experiments side by side. Some of the design considerations were:

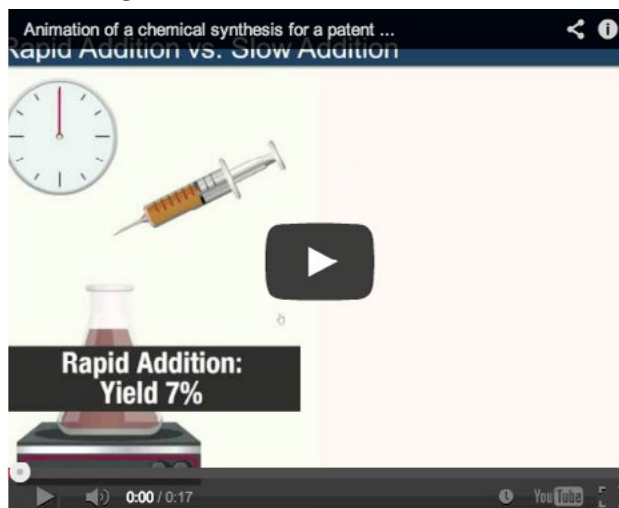
- *Simplified images of lab equipment:* We included images of common laboratory

equipment to convey the idea of a lab experiment, but we omitted many details that would have complicated the illustration. (For example, the real experiment used a “syringe pump” that allows addition of the reagent over 30 minutes—our animation replaced that unfamiliar equipment with an illustration of an easily recognized syringe.)

- *Successful results in the two runs:* To convey the idea that both syntheses (rapid or drop-by-drop addition) created the patented pharmaceutical compound, we put a prominent banner showing the percentage yield.
- *Simple procedure of drop-wise addition:* Recall that there was also expert testimony that adding the reactants slowly to increase yield was a well-known technique. To convey the simplicity of this change, we showed drop by drop addition from a syringe as a clock runs in the background.

The Animation

The picture above shows a single frame from the animation. Below is the full animation:



In the comments, please let us know what you think. Did we visually convey the two points of this argument effectively?

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Michael Kelleher is an IP litigator, tech attorney, and partner of [Cogent Legal](#), a litigation graphics and trial strategy firm based in the San Francisco Bay Area that develops clear and compelling visual presentations for attorneys to use in mediation or trial. Services include animations, 2D and 3D graphics, medical illustrations, PowerPoint or Keynote presentations, interactive timelines, videos, strategic consulting and trial support. Cogent Legal integrates the legal expertise of a successful trial attorney with the creative and technical talent of a design firm.