

Just the Facts, MA'AM

By Reg P. Wydeven
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When my dad starting practicing law in 1965, he didn't have any of the modern technological conveniences that I take for granted, like PDAs or cell phones.

My dad didn't have a copy machine. He used carbon paper, and I remember him coming home some nights looking like he arm-wrestled with an octopus. My dad's pocket calculator wouldn't fit in the pocket of a kangaroo and it cost as much as a Yugo. And it didn't divide.

My dad didn't have voicemail. If a client wanted to leave a message for another attorney, my dad had to take good notes. Hopefully that other attorney understood hieroglyphics. My dad didn't have a computer with voice-recognition software that could save documents after spell-checking them and print them on a laser printer.

My dad didn't have high-speed internet or CD-roms to use for research. My dad actually had books in his office. My dad had to practice law without any of the time-saving tools that I rely on every day to make me a more efficient lawyer. But he also didn't have all of the headaches that go along with them.

He didn't have to worry about copy machines being jammed. He didn't have to worry about glitches with the voicemail system that causes the loss of all messages. He didn't have to worry about computers, servers or networks crashing or losing internet service.

My dad didn't have to worry about people like Benjamin Smith III stealing his WiFi, or Wireless Fidelity - a wireless internet connection. Smith was arrested in Florida and charged with unauthorized access to a computer network, a third-degree felony, for parking his SUV outside Richard Dinon's home and using Dinon's WiFi on his laptop computer. Unauthorized use of other people's unsecured Wi-Fi networks is common and typically undetected. Users could potentially be using the networks for illegal purposes, such as trafficking child pornography or identity theft.

My dad also didn't have to worry about "junk faxes", or an unsolicited advertisement sent over a telephone facsimile machine. Fax machines make life easy because they can send and receive documents to and from clients in seconds, but only if they aren't stuck retrieving unwanted ads.

The Telephone Consumer Protection Act of 1991 and Federal Communications Commission rules prohibit "any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission."

Prior to July 1, 2005, a person could send a junk fax to someone with whom the sender had an "established business relationship" with. After the FCC recently amended its rules, after July 1, senders could only send junk faxes after obtaining a signed, written consent form that includes the fax number to which any advertisements may be sent.

Violators of the new rules are subject to citations and fines from the FCC. Also, victims of junk faxes can sue the senders and are entitled to recover the actual monetary loss resulting from the violation, or receive up to \$500 in damages for each violation, whichever is greater. The court may triple the damages if it finds that the defendant willingly or knowingly committed the violation.

It's amazing that if my dad complained about having too much spam at work it would have such a different meaning than if I were to make the same complaint today.

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