# Internet News & Law 2.0

Making the most of the legal web

March/April 2008

## Engaging with Web 2.0

#### **By Chris Hinze**

Back in the early days of the internet, much of the debate within law firms was around whether they should have a website and, if so, then who was going to look at it. Was it even appropriate for lawyers to have a website, was it demeaning for professionals to use these types of technologies and should there be biographies and direct contact details for partners? Today those arguments are viewed as irrelevant.

It is the development of social networking sites such as MySpace, Bebo and Facebook, the ability to post video clips on YouTube and the ability for people to create new personas for themselves in new virtual reality worlds such as Second Life that are now triggering debates within law firms. While the website debates of the past were mainly about how firms used the internet, these new debates are around how individuals, whether they are partners or employees, use the internet. Social networking sites make it very easy for people to reveal a lot of information about themselves should they so wish.

As these new technologies are really driven by individuals rather than organisations, they can be very spontaneous. A search on Facebook of Clifford Chance, for example, reveals that groups have been set up by summer scheme students, trainees in London, alumni in Hong Kong and students taking the LPC at the College of Law. It is impossible to know whether these are groups that have been sanctioned by Clifford Chance or whether they have come into being of their own accord. Some use the Clifford Chance logo, but that doesn't mean anything of itself since anyone can copy the logo and put it up in a Facebook group.

How are firms reacting to this? At the beginning of January, DLA Piper created what it called a privately-accessed equivalent of Facebook called "Inside the Tent". This is intended to enable DLA Piper's graduate recruitment team to communicate easily with their future trainees. There will be a range of information

Displaying 1 - 10 out of 13 group results for: clifford chance



Group: Network: Size: Type; New: Clifford Chance Global 276 members

Business - Employment & Work

1 More Member



Group:
Network:
Size:
Type:

Clifford Chance - Aug 2007 trainees Global 43 members

Business - Companies

available including news about the firm, forthcoming firm events and social activities. That does not, however, replace what trainees are already doing — they have a Facebook group called DLA Piper Trainees 2009 with 40 members and featuring a news story from another Facebook group which has a photo of DLA's global head of Islamic finance Oliver Agha with a fried egg on his face.

Facebook has functionality which enables members of groups to easily organise meeting times and dates for events. One law firm has started to use this to help organise attendance at their recruitment events at universities.

YouTube can be used both as a medium for personal expression and also as a way for institutions to make more readily available a lot of knowledge. In many ways it does for video what the broader Internet did for print and visuals. A search on YouTube for Linklaters finds that someone – for reasons best known for themselves – has posted up some footage looking at the outside of Linklaters' offices in New York. And a little bit more digging discovers that as well as a video tribute to Tony Angel produced by the Managing Partner Forum featuring the great and the good of the

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#### **Technology**

Contributions are invited from readers on intranet products. Please email delia@venables.co.uk

legal profession, the "out-takes" version is also available to view. Someone has also created a home-http://w made advertisement lasting nearly six minutes celebrating the opening of DLA Piper in Warsaw.

In a very different video clip, Latham & Watkins partner Scott Ballenger makes the case for providing expanded access to experimental drugs for the terminally ill as part of a lecture given for the Washington DC based public policy group the Cato

This breadth of material reflects how YouTube is being used as a means of personal expression and also as a means of corporate communications and the challenge for law firms – like other businesses – is to decide how it will engage. Trying to decide whether to engage is arguably pointless since there is a reasonable chance that either your own people or some third party will involve you anyway.

Firms are also looking to engage with new online worlds such as Second Life, an internet based 3D virtual world. Second Life users, called "residents", are able to interact with each other through 3D representations of themselves, creating an advanced level of social networking. Residents can explore, meet other residents, socialise, participate in individual and group activities, create and trade items and services with one another. Second Life claims 12 million residents from around the world, around 1.5 million of whom have been active in the last two months

One of the characteristics of Second Life is that residents own the IP rights to any objects they might create and they are able to sell those objects to other residents using the Second Life currency, the Linden Dollar. This has a floating exchange rate with the US Dollar and trades at around LD\$265 to US\$1.

Field Fisher Waterhouse opened a virtual office in Second Life in 2007 as a way of engaging with its technology clients and has gone on to host an art exhibition in both the real world and Second Life.

Lovells launched a temporary exhibition in Second Life to mark the 10th anniversary of its pro bono unit and Pro Bono Week in November 2007. The exhibition showcased current and former pro bono clients including Whitechapel Mission, Thames 21, Poetry in Wood, Community Links, National Centre for Domestic Violence, Greenworks, Muslim Youth.Net, The Prince's Trust, and Action for Blind People. We also posted a video guided tour onto YouTube for those who were unable to access Second Life.

Clients, employees and potential recruits all use these technologies in many different ways and the challenge for law firms is to use them in a way that matches the wider trends in society as a whole.

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## MyNetworking Document hosted at JUGUT IVA www.idsubra.com/post/document/views/.aspx?fid=02af9e5b-f5ec-4d77-be39-ba6354372837

#### **By Simon Deane-Johns**

The word "networking" usually evokes those awkward moments at conferences when you're standing alone in the crowd, sipping a coffee and wondering when to leave.

That awkwardness comes from not having any known basis for politely introducing yourself. Even a single item of information about another person can be enough to show that you are interdependent and thus two nodes in a social network, rather than merely attendees at the same event. Sometimes the only way to figure that out is to sidle up to a stranger and begin speaking. Tough if you aren't in the mood.

The joy of the internet is that it enables you to discover these interdependencies without the restrictions of time, venue or direct human intervention. Social network services like Facebook.com, Myspace.com and Bebo.com provide a collection of various ways for users to interact, such as chat, messaging, email, video, voice chat, file sharing, blogging and discussion groups. Joining your colleagues in a community that is using these features enables you to communicate with the right people about what's important to you. That's why these social network services are some of the most visited sites in the UK.

Facebook broke into the <a href="comScore.com">comScore.com</a> Top Ten ranking for the UK in December 2007 with over 12 million UK unique visitors; when I joined Facebook last June it had about 3 million. Key to that explosive growth was Facebook's decision in May 2007 to enable third parties to implement and share their own software applications on Facebook.com, Suddenly, software developers had an opportunity to market their applications to millions of reasonably sophisticated users of the same technology platform, who were there for the specific purpose of sharing information with each other. In effect, the cost of starting an internet business had plummeted and become "democratised", giving rise to what has been dubbed "the Facebook economy". Not to be outdone, Google soon announced its own "Open Social" programme to enable the deployment of social software applications across most of the other social network services - except Facebook, of course.

Figures from Appsoholic, a Facebook application that tracks users' activity, indicate what the "average" person on Facebook is up to: on 8 February, the most active applications were those for rating self and friends, sending roses and chocolates etc. I have done none of these things, but there are thousands of niches covered by the Facebook community.

I belatedly joined Facebook in June 2007 because it was the most mentioned business name at the Society for Computers and Law's Annual Conference. It was already more alluring than MySpace and Bebo, having sprung out of Harvard with a largely graduate, rather

Internet Newsletter for Lawyers & Law 2.0 is edited and published by Delia Venables and Nick Holmes ISSN 1467-3835 Subscriptions: UK and Ireland £45 p.a. Overseas £50 p.a. Multi-use licence £75+VAT p.a. (6 issues) Enquiries to Delia Venables 10 Southway, Lewes BN7 1LU Telephone/fax 01273 472424 email delia@venables.co.uk Information and online subscription and subscriber access to the online version are at www.infolaw.co.uk/newsletter Subscribers login with your email and password or use n0803@infolaw.co.uk password n0803sne (changes each issue) than teen, membership. But its speed of growth, challenge to privacy, the alarming prevalence of user-http://w generated content and its new role as a launch-pad for businesses finally drew me in

I had also resisted joining partly because I was already participating in <a href="LinkedIn.com">LinkedIn.com</a>, the networking service for business people. LinkedIn has only just passed the 1 million user mark in the UK, but is the most popular business network. It acts as a repository for your curriculum vitae, or "profile", which is displayed to people whom you invite, or who invite you, to "connect". You can also make some elements of your profile public. I find it is useful for arranging introductions to suppliers or clients, or learning about people whom you are scheduled to meet or call. There is some "news" flow about who is connecting with people in your immediate network, who has updated their profile and you can ask and answer questions.

But there is a place for both services. While the LinkedIn experience is appropriately static, sober and formal, Facebook is designed to facilitate very informal interaction amongst connected "friends" through various forms of messaging, one-line "status updates", writing on each other's profiles or "walls", playing games and arranging events. You see all your "friends" activity summarised as a series of one-liners on a "News Feed" on your "homepage". In fact, most exchanges between friends on Facebook are brief and informal – often irreverent and funny. While you might meet the same people with whom you are connected on LinkedIn, meeting them on Facebook is the equivalent of joining them in a bar after work.

While I have a fairly full CV on my LinkedIn profile, the personal information that I share on Facebook is limited to current job title and my taste in music, film and books. The remaining "colour" comes from the applications that I add to my profile, groups I join, my blog (which is visible to those who've added the "Blog Friends" application), and my comments or discussion on various group pages, eg the Society for Computers and Law, the Financial Services Club. My 70 "friends" on Facebook are a subset of the 230 connections on LinkedIn.

I tend to check Facebook and LinkedIn once a day, spending just a few minutes responding to requests to

connect, seeing who is doing what. I have started at JDSUPRA Arguns an hoth platforms one for Jona and inked In 39-ba6354372837 where people start groups to enable people to simply state an affiliation; the other for the Society for Computers and Law on Facebook, which lends itself better to discussions or arranging events (though SCL members have not proved terribly active!).

No doubt there are employees who spend hours on Facebook, in the same way that bored staff used to play patience on their computers. But that is not a signal to block access to Facebook on an enterprise basis, as many IT directors would insist upon: it's a signal that the staff in question don't have enough to do, or are poorly managed. In any event, no one interested in their own future or that of their business should feel comfortable blocking access to a site visited by over 12 million Britons a month.

Simon Deane-Johns is a consultant lawyer with Amazon (amazon.com), the world's biggest online retailer, and a cofounder of Zopa (zopa.com), the online marketplace where people lend and borrow directly with each other.

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## Domaining is big business

In an online extra, Shireen Smith, of Azrights (<a href="www.azrights.co.uk">www.azrights.co.uk</a>), writes about "domainers" — entrepreneurs who collect domain names for selling to others who want to use them for (legitimate) marketing and selling online. This can be a very profitable activity with (for example) the domain name business.com changing hands for \$7.5m and a company which owns a large portfolio of such names sold recently for \$164m.

"Domaining" can be distinguished from "cybersquattering" – registering domain names for selling back to those who would be considered to have a legitimate claim to them (eg by virtue of a similar trade mark or business name). These people are often forced to pay quite large sums to the cybersquatters to get back "their" name without incurring lengthy and expensive dispute and legal processes.

Of course, there are grey areas in between, eg how legitimate is it to purchase a domain name based on someone else's misspelled company name?

Read the article at www.infolaw.co.uk/newsletter.



# Will e-learning and KM merge?

#### By Pip Johnson and Derek Sturdy

Knowledge Management in the legal sector continues to suffer from three main problems:

- the frequent difficulty knowledge managers encounter in trying to extract the knowledge from the best practitioners;
- the need to keep things up to date, especially considering that legal knowledge is often most valuable in the most rapidly changing fields;
- the need to measure the effectiveness of knowledge systems: are lawyers understanding and interpreting the know-how correctly?

#### Extracting knowledge

In an article in the September/October 2007 issue (http://www.infolaw.co.uk/newsletter/?p=58) Clare Line and Ann Hemming illustrated the success of transaction simulation as a training tool. It seems that it is not that hard to get lawyers to share their knowledge by audio-visual means, where they can see the practical benefits to their teams - they do not have to write! Writing is time consuming and therefore unwelcome to time-stressed people. Many of our most successful lawyers are excellent - and prolific - talkers and presenters. We already make use of this virtue, especially in capturing seminar talks in video. We can do much more to make use of it, in role-playing, in delivering transaction-based know-how, and in voiceover commentaries which apply the words of experienced lawyers to the transaction simulations, seminar videos, or other material:

- it is much quicker, for the person delivering the knowledge, to do it by talking than by writing;
- nuances of emphasis, and of tone of voice, carry significant extra meaning which is hard to communicate in documents;
- it is (mostly) more palatable to users, who can access the relevant nuggets of know-how online, while the media-rich format makes the material easier to assimilate;
- it allows us to capture the "water-cooler" type of knowledge.

#### Keeping it up to date

All know-how gets out of date, but some gets out of date faster than others. Whether or not a piece of know-how has been formally updated, it must be possible to incorporate searches of the online resources (PLC, Westlaw, Lexis-Nexis, Justis, BAILII, and so on) to see any new cases, regulations, legislation, or commentary that may affect the know-how.

This ability is not just a way for users to update the material they are looking at: it can also be used by those charged with maintaining the know-how, whether originators or not, to see if changes are needed to the material (most publishing houses offer automatic updating alerts and feeds as well).

One way to handle the online research component within know-how is to incorporate a search that provides access to the critical law in its widest sense –

whether case law, legislation, regulatory sites or hosted at JDSUPRA http://wwhateyerom.relevant.to.cach.topic.idiscussed.io.the7-be39-ba6354372837 know-how. This might include direct citations, carefully considered topics, known short-cuts such as PLC's Topic IDs, and so on, in a well-crafted query. Passing this query to a search federator, or ideally an enterprise search engine, the user can just click a research link to see the latest state of play. What is stored in the know-how is not the answers to the research at the time the know-how was created, but a carefully crafted way to find the up-to-date answers and present them to the user when they are using the know-how.

#### **Tools**

There is now a range of reasonably-priced and sophisticated tools available to help with building such products: for example, Adobe's (www.adobe.com) Captivate and Articulate; for network capabilities, Atlantic Link (www.atlantic-link.co.uk) and Wimba (www.wimba.com); for online offerings, Brighttalk (www.bright-talk.com). Many of these multi-media products are developed as part of an e-learning offering, allowing PSLs and managers to track usage and to incorporate assessments within the products. elearning authoring tools allow PSLs and others to create effective, assessed know-how easily and quickly. The development of hybrid know-how tools can be supported by a growing number of experienced authors and technicians, so that a firm can get up to speed with their developments quickly and efficiently. Law firms (Addleshaws, Ashurst and Beachcrofts are just a few at the top end of the alphabet) are showing great interest in using these tools, so they can form an attractive part of a client facing KM strategy. Technical support for doing the work is readily available from outside suppliers; there is no need to devote expensive and scarce internal resource to the "techie" pieces.

It is, therefore, entirely practical to pull together the vital components:

- the videos of interviews, presentations, seminars, transaction simulations, etc;
- the voice-over and interjected commentary, including practice notes;
- interactive elements (discussion sites, blogs and wikis);
- crafted searches to pull in the external resources and updating elements.

#### **Project management**

For the kind of integration outlined here, there are three key project management jobs:

- getting a scope and programme of work agreed for each job, so that the required technical stages – filming, processing, editing, adding other-media pieces such as research, and packaging – can be scheduled with the right sort of people; this is a task which can be outsourced to a specialist;
- deciding on the content, which is naturally the province of the firm's lawyers or PSLs; this is a task which would be done in-house;
- providing the back-up editorial work to put the research links in place, which can be done by PSLs, or by specialists in legal information whether internal or external.

#### Standard products

The specialist module in money laundering compliance, produced and sold by Vinciworks (<a href="www.vinciworks.com">www.vinciworks.com</a> and <a href="www.vinciworks.com">www.vinciworks.com</a> and <a href="www.vinciworks.com">www.vinciworks.com</a> and <a href="www.vinciworks.com">www.vinciworks.com</a> and <a href="www.vinciworks.com">www.vinimocompliance.org</a>) using its Legal Learning Management System (and working with 14 of the UK's largest law firms), illustrates how some aspects of legal know-how can be turned into a standard product, the cost of which to a law firm is a small fraction of what it would cost to produce internally. We believe that this is just the start of a trend where compliance and risk management initiatives will impact on the firm's KM policies.

Specialist internal know-how is unlikely to become commoditised in this way. There is, however, scope to integrate know-how not just with the additional research component, as we have outlined above, but also with the assessment and effectiveness monitoring typical of e-learning, thus linking with professional development programmes. This will require the design of each piece to be carefully controlled to ensure that each module can be accessed in convenient, cumulative time-slices, rather than in one large indigestible chunk. This is where instructional design skills and project management skills are really important.

#### **Conclusion**

For many areas of know-how deployment, we suggest that firms can make use of techniques already in use in their organisation for training, and combine them with the access to legal research that today's enterprise search engines make easy. This will make know-how easier and quicker to extract from its current holders, and easier to deploy to users at the time they need it – when they are doing the work – rather than in specific sessions which might be poorly, or sporadically, attended.

Much of the work can be outsourced, reducing costs and increasing consistency and quality.

Pip Johnson runs Ad Alta Learning Ltd (<a href="www.adaltalearning.co.uk">www.adaltalearning.co.uk</a>), specialists in online learning for the legal sector. Email <a href="mailto:pjohnson@adaltalearning.co.uk">pjohnson@adaltalearning.co.uk</a>.

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The authors gratefully acknowledge comments from Ann Hemming, who has recently joined Tikit Ltd as Head of Online Learning.

## Data protection goesocratobalt JDSUPRA http://www.josupra.com/post/document/viewer.aspx.2d=02ar9e5b-2ec-4d77-be39-ba6354372837

#### **By Lindsey Greig**

The ability to store and share data nationally and globally over the internet creates massive opportunities but also substantial threats. Data protection, once the concern of a small group of professionals, has become a major focus of politicians, company directors, the public sector and private individuals.

Data and the databases in which information is stored lie at the centre of business and government. From banking to the health service, from the lowliest marketing database to the national databases of the state, data drives services and industries.

Recent high profile data breaches in the UK, with HM Revenue & Customs losing personal data on 25 million individuals in December 2007, and in the US, where 45.7 million customers of the TJX Companies had their account information stolen by hackers, has pushed data protection concerns up the corporate and political agenda.

In the US, the new job title of Chief Privacy Officer is appearing in both corporate and state organisations. In the UK, a new breed of data protection manager is finding responsibility thrust upon them to ensure that their organisation does not appear in tabloid headlines for the latest embarrassing data breach.

Regulators are gaining confidence that the public shares their concern about the use of personal data. The UK Information Commissioner is arguing for both greater powers and tougher penalties for misuse of data, while in the US, 39 states have now passed data breach legislation.

#### Social networking and the e-STOP Act

Social networking sites have been the latest organisations to feel the pressure to comply with privacy obligations. In January 2008 the UK Information Commissioner's Office (ICO) announced that it was in talks with Facebook over the retention of user data once people have deleted their account.

In the US, New York State Attorney General Andrew Cuomo announced in January 2008 the introduction of a bill to protect social networking users from sexual predators. The Electronic Security and Targeting of Online Predators (e-STOP) Act is designed to "restrict certain sex offenders' use of the Internet and updates Megan's Law for the Internet age", according to a press

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release from the Attorney General's Office. It:

- requires sex offenders to register all of their internet of their inter accounts and identifiers (email addresses and designations used for chat, instant messaging, social networking or other similar internet communication) with the State Division of Criminal Justice Services;
- authorises the State Division to release state sex offender internet identifiers to social networking sites that may be used to stop sex offenders from using sites' services:
- requires mandatory restrictions on an offender's access to the internet, as a condition of probation or parole, where the offender's victim was a minor, where the internet was used to commit the offence or the offender was designated a level 3 (highest level) offender.

Google is at the forefront of the debate about the balance to be struck between protection of personal privacy and the provision of commercial services. In a January 2008 hearing of the European Parliament's Civil Liberties Committee on monitoring of internet users activity for marketing purposes, Peter Fleischer, Global Privacy Counsel for Google said, "We have to know who is consulting what – otherwise our business would not work". He emphasised that internet services are normally supplied for free and that their growth is "partly due to advertising".

#### The need for global standards (or at least, global information)

For many companies, the challenge of compliance is not confined to observing the requirements of a single regulator. There have been a number of moves to create a global structure for data protection, starting with the OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data in 1980, but the achievement of a global approach is still a work with much progress yet to be made. Even within the EU where there has been a Data Protection Directive in place since 1995, the implementation of that data protection legislation in the individual jurisdictions has resulted in significant differences in practical compliance requirements.

Google, with its global operations and reach has been one of the companies

campaigning for the establishment of international at JDSUPRA ndrivacy at and ards of the the October 12007 13 SUB of 40 4 3 e 39 ba 635 437 2837 Protection Law & Policy, Fleischer wrote, "we have a fragmentation of competing local regimes, at the same time as we have the massively increased ability for data to travel globally. Data on the internet flows around the globe at nearly the speed of light. To be effective, privacy laws need to go global. It is absolutely imperative that these standards are aligned to today's commercial realities and political needs, but they must also reflect technological realities."

The evolution of international privacy standards is, however, a slow process. Organisations today have no choice but to comply with the range of regulations in every jurisdiction within which they operate. For many data privacy managers this is where their nightmare starts; establishing whether the privacy rules for email marketing are the same in Germany, France, the Czech Republic and Italy can be challenging; seeing if the procedures for the transfer of employee data from Lithuania, Latvia, Estonia and Sweden to outside the EU are the same can prove even more time consuming and expensive.

Much of the regulatory material in these countries is unavailable in English and even when available, the attitude of the regulator, rather than simply what is on paper, can be the most significant factor in compliance. Faced with this challenge, data protection professionals have struggled to devise programmes that will work across many jurisdictions.

#### **DataGuidance Europe**

Several law firms and larger in house legal departments have attempted to create their own international data protection databases but all have either given up, daunted by the scale and costs involved, or have scaled down to providing links to regulators or repurposing research done for clients.

As Managing Editor of *Data Protection Law & Policy* at Cecile Park Publishing, I was frequently asked if I knew of a single source for data privacy information. Tired of saying no, I set out to create a global data protection and privacy compliance platform.

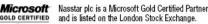
In January 2007, we convened a focus group, including a representative of the UK Information

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Commissioner's Office, a number of specialist data protection lawyers, data protection managers and accountants. The group, although concerned at both the scale of the work to be completed and the need to find an effective retrieval method, were enthusiastic about the creation of a global data protection and privacy compliance platform.

Twelve months later with the launch of DataGuidance Europe (<a href="www.dataguidance.com">www.dataguidance.com</a>), the first stage of the global project has been completed. DataGuidance Europe brings together all the legal and regulatory information from all relevant data protection and privacy sources in the European Union and the European Economic Area. DataGuidance Europe also provides expert Guidance Notes on data protection and privacy compliance, written by experts in each jurisdiction.

The sources and Guidance Notes are accessed and retrieved using Guided Navigation powered by vertical search software, from US head-quartered Endeca (www.endeca.com).

Reaction has been positive. Eduardo Ustaran, data protection specialist and Partner at Field Fisher Waterhouse said, "this is a magnificent and much needed service. It is an exciting development for the data protection world". Shirley Lofthouse, Head of Information at Travers Smith, said, "I think the database is genuinely original and shows a real leap in thinking about the way such databases should work".

Privacy regulators and privacy professionals have had their work cut out in the last few years trying to keep pace with the high-speed growth in the use of data. Perhaps using some of the latest technological developments to ease that burden is fitting.

Lindsey Greig is Managing Editor of DataGuidance (www.dataguidance.com) published by Cecile Park Publishing Ltd whose publications include *Data Protection Law & Policy, E-commerce Law & Policy, E-finance & Payments Law & Policy, World Sports Law Report, World Online Gambling Law Report* and *E-commerce Law Reports*.

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## A wake-up call to lawwersted at JDSUPRA www.jdsupra.com/post/documentylewer.aspx/i/d=Uzarjeeb//5ec-40/7-be39-ba6354372837

#### **By Nick Holmes**

Professor Richard Susskind is, as I write, no doubt completing the final draft of his forthcoming treatise, *The End of Lawyers?* to be published in June by Oxford University Press.

More than 12 years ago he wrote its predecessor, *The Future of Law*. Then only a few of us had awoken to the internet; only a handful of firms had websites; there was no free law to speak of and no e-commerce; Google's founders were still students and facebooks were still published annually in hard covers. Yet he then predicted remarkably accurately the shape of the legal internet of today.

In six extracts published recently in Times Online (business.timesonline.co.uk/tol/business/law/article2715064.ece) he gives us a taste of his updated thinking and asks us to help him finish the new book!

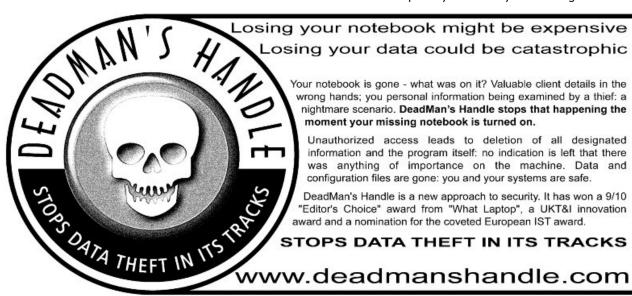
- He challenges lawyers to embrace change.
- He revisits some of the predictions he made in *The Future of Law*.
- He argues that lawyers will give way to multidisciplinary advisers.
- He says that clients will not remain loyal to conventional practices.
- He asks who is looking beyond the next five years.
- He addresses his critics and says they have missed the point.

Here are extracts from the extracts. The headings are mine, with apologies to the author.

#### Face up to it

"The law is not there to provide a livelihood for lawyers any more than ill-health exists to offer a living for doctors. Successful legal business may be a by-product of law in society, but it is not the purpose of law. And, just as numerous other industries and sectors are having to adapt to broader change, so too should lawyers. ...

The challenge is not to assess how commoditisation and IT might threaten the current work of lawyers, so that the traditional ways can be protected and change avoided. It is to find and embrace better, quicker, less costly, more convenient and publicly valued ways of working."



#### No, I am not dangerous or insane

"I argued that ... many of our fundamental assumptions about the nature of legal service and the nature of legal process would be challenged by the coming of information technology and the internet. In other words, much that we had always taken for granted in the past, about the way that lawyers work and the way non-lawyers receive legal guidance, would change through technology. ...

When I suggested ten years ago that e-mail would become the principal means by which clients and lawyers would communicate, many people suggested I was dangerous, that I was probably insane and that I certainly did not understand anything about security or confidentiality."

#### The e-volution is upon us

"Lawyers, like the rest of humanity, face the threat of 'disintermediation' (broadly, being cut out of some supply chain) by smart systems; and, as in other sectors, if they want to survive, their focus should be on re-intermediating – that is, on finding news ways of invaluably inserting themselves in supply chains. This will lead, I believe, to the emergence of what I call 'legal hybrids': individuals of multi-disciplinary background, whose training in law will have evolved and dovetail with a formal education in one or more other disciplines. ...

I am not suggesting that there will be no call for the traditional legal expert. I am saying there will be less call for these individuals, because new ways of satisfying legal demand will evolve and old inefficiencies will be eliminated."

#### Your clients will vote with their wallets

"The major firms may feel they are beyond the scope of commoditisation and systematisation and that, on betthe-ranch deals and disputes the legal fees represent but pocket change in the grand scheme. But this is not the attitude I find amongst the general counsel of some of the world's largest organisations.

These managers are under pressure to reduce their legal budget. And these clients' loyalty to conventional firms will be limited if new legal businesses emerge that offer quicker, more convenient, lower cost alternatives to low- and high-value work that seem to be more geared to the interests of clients and are more business-like in their constitution."

#### Think of your children

"No-one who might be thought to be in the driving seat of the legal system is thinking systematically, rigorously and in a sustained way about the long term future of legal service. No-one seems to be worrying about the fate of the next generation of lawyers.

It is assumed that legal guidance will continue to be dispensed by skilled professionals as a one-to-one, consultative advisory service. By and large, no discontinuities, transformations, upheavals, disruptions or revolutions in the nature of legal service are being contemplated."

#### Wake up!

"Open-minded lawyers, and those who genuinely care about the interests of their clients should ... be looking at ways in which IT can play a more prominent role in their services. ... there are existing and emerging technologies whose widespread adoption will effectively render [some lawyers] redundant. ... 'disruptive legal technologies' [will] challenge and replace them, in whole or in part.

Most ... are phenomena of which http://www.dsupra.com/post/document/lewer-as/px/did/202a/

aware. ... If lawyers are barely conversant with today's technologies, they have even less sense of how much progress in legal technology is likely in the coming 10 years. Politely, it puzzles me profoundly that lawyers who know little about current and future technologies can be so confident about their inapplicability."



jupiterimages.com

#### Comments anyone?

In keeping with the times, Times Online elicited online comments from readers to each of the articles. These served the purpose of not only engaging the readership, but also providing feedback to assist Susskind in completing his work.

A number of commentators ignore the telling question mark at the end of the title *The End of Lawyers?* and the sub-title *rethinking the nature of legal services*. Even the Times itself is guilty, asking "Will lawyers still exist in 100 years?" If lawyers are those who do legal work, then the answer is "Of course they will". But that is not the question; the question is rather "What shape will lawyers be in?" Reliance on the fact that there will always be lawyers will not help those lawyers who fail to adapt to the changing landscape.

Others point out that there will always be highend/complex legal work that cannot be commoditised, but here again, this is a rather narrow interpretation of Susskind's point. "Commoditisation" and even "systematisation" may imply automation of the repetitive but not necessarily much more. But law is a knowledge business and when looking at the prospects for lawyering, including high-end work, think also "collaboration" and "collective intelligence" and other words which are to the fore in the current Web 2.0 world to see where some of the new efficiencies will lie.

There is also more substantial comment in the blogosphere and in the legal press, which you can find readily by Googling **"the end of lawyers"** susskind.

As to the immediate future, Susskind counsels (in his contribution to the SCL 2008 predictions at <a href="https://www.scl.org/editorial.asp?i=1705">www.scl.org/editorial.asp?i=1705</a>):

"My advice to lawyers and law firms everywhere is to take Web 2.0 very seriously indeed in 2008. We are entering a new era of Internet activity, one that will directly affect the daily working lives of legal practitioners. The impact on the legal profession of social networking and online collaboration will be profound. I am more confident about this than I was, in 1996, when I said that the Internet would transform the communication habits (email) and information-seeking habits (the Web) of lawyers. In 2008, we will see the beginnings of the legal world embracing Web 2.0."

Web 1.0 facilitated the delivery of information and transactions between producers and consumers and set the ball rolling; Web 2.0 is transforming the medium into one that challenges the traditional roles. Susskind argues lawyers should see the writing on the wall: the acquisition, processing and application of legal knowhow is no longer the preserve of (traditional) lawyers.

Nick Holmes is joint editor of this Newsletter.

### Upwardly mobile

#### By Alex Newson

Mobile devices have impacted the legal profession as much as the rest of the business world. Many lawyers – particularly commercial lawyers – have the dubious privilege of carrying Blackberries, making them contactable almost anywhere. Those particularly fruity devices are so ubiquitous in the business world that they need no further introduction.

The number of concurrent advances in mobile device technology is so great that to summarise them in one article is a feat beyond me. Instead, I will highlight some of the most notable developments and consider some the key points that the lawyer on the go should know about these technologies.

#### **Diversity**

Mobile device manufacturers are in creative overdrive. A wide array of devices is appearing on the market, giving buyers a confusing amount of choice. Mobile phones want to be laptops, and there are PDA-like devices that also function as phones, or media players, or sat nav systems, or all of those functions. The boundaries between device categories are blurring.

So-called "smartphones" are becoming increasingly popular. These come equipped with many of the features you find on your desktop PC, such as the ability to view and edit documents, calendars that sync with Outlook and internet access. Phone keyboards are generally fiddly and unsuitable for editing office documents. However, you can buy a full-sized, fold-out keyboard that connects to your phone wirelessly, meaning that you can type into your phone almost as easily as you type into your office PC. There are standard operating systems for smartphones, the most popular being Symbian, used by manufacturers such as Nokia and Samsung. These OSs allow users to install third party software, which has led to the appearance of a market for smartphone software. Most mobile phone operators include smartphones in their lowestprice monthly contract ranges. There have also been great leaps forward in usability. Prompted to raise their game by the iconic Apple iPhone, other manufacturers are releasing phones with clever new interfaces, with touch screens soon to be a common feature.

Personal digital assistants (PDAs), popular in the 90s, looked to have been killed off by smartphones.

However, with a new generation of PDAs being hosted at JDSUPRA http://wproduced.by.big.names.such.as.Palmoand.blRe.a4rey.vad-ba6354372837 in PDA popularity is underway. Unlike most phones, PDAs are already operated using a touch screen. Whilst initially seen as a jazzed-up music player, the latest update to the Apple iPod Touch (essentially the iPhone without the phone) has seen it gain an impressive email application. Email, together with a PC-synced calendar, means that the Touch is now viewed by some to be a useful PDA. Most PDAs are easily synced with office PCs, meaning easy editing of documents whilst out and about, without having to carry that bulky laptop.

"Internet tablets" allows internet access on small devices with large (touch) screens, often much larger than found on smartphones (the iPhone excepted). Wifi normally provides the internet connection, with some also giving access via Bluetooth (meaning that your Bluetooth-equipped smartphone can be the connection). By "internet", I don't just mean the web; many tablets come with RSS newsreaders, voice over IP for phone calls, and instant messaging. A good example is the Nokia N770. Most tablets will play music and video files and have enough storage space to make good use of these features.

Despite their best efforts, none of the above devices can yet compete with laptops for portable power and flexibility. The laptop market has not been without its innovations recently. Just as smartphones, PDAs and internet tablets try to be "proper" PCs, the laptop manufacturers are starting to learn the tricks employed by those smaller devices. There are various "ultraportables" such as the Mac Air, a laptop as thin as your index finger yet with a 13-inch screen and full size keyboard. Equipped with a laptop, many will want internet access to connect to their offices or surf the web. Whilst wireless "hotspots" in the UK are relatively rare, many mobile telecoms operators offer affordable broadband-speed internet via their networks.

#### The battle for users

A combination of the popularity of the above types of devices, cheap (often fixed price) data rates, and fast connection speeds, has resulted in mobile devices becoming commonly used for internet access and software. A survey conducted in January 2007 found that about one-fifth of all internet use in the UK was done on mobile devices. One year and one month on from that survey, I have no doubt that the proportion





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of internet use made via mobile devices will have increased further still.

This popularity has led to mobile devices becoming an important new battleground for service providers of all kinds, who all want to be the service of choice. A key example is Google, which is highly active in the mobile field. The search giant has launched and is heavily funding "Android", a project to develop a Linux-based mobile phone operating system (diversity of mobile phone operating systems being a trend that I don't have space to cover in this piece) that phone manufacturers can use on any phone. Rumour has it that Dell is going to produce an Android-based phone.

What will Google get out of Android if the project is a success? The answer: domination of even more of our IT time, and even more money making opportunities. Having developed key parts of the software, Google will be at the centre of Android devices. At the same time, Google is making other efforts in the mobile arena, launching a mobile-specific version of its search engine and other services such as maps and Gmail. Yahoo and other well-known IT companies are doing similar.

Moving outside "pure IT", banking is one of the industries looking into providing services by mobile devices. A recent report suggests that mobile phone users will have made over £295 billion worth of financial transactions using mobile devices by 2011.

#### **Opportunities for lawyers**

The new generation of mobile devices brings a number of opportunities for lawyers in terms of how we collect and use information.

Mobile email is something that Blackberry-burdened lawyers have been used to for some time and a number of the mobile devices mentioned above provide this.

More interesting uses of these new devices include obtaining and viewing information updates whilst on the move. There's probably no better time to read-up on things than when stuck on a train or waiting around for a meeting to begin. Many devices include web browsers, RSS newsreaders and even allow direct downloads of podcasts, allowing us to do this.

Another is working on office documents whenever you want, without forward planning. For example, my fairly bog-standard Nokia phone includes QuickOffice, an office suite compatible with that from Microsoft. Attending an external due diligence exercise a few

months back without having brought a lapton I hosted at JDSUPRA http://wrealised.it.wpuld.save.time.to.type.up.out.report.wsings.ba6354372837 QuickOffice and a fold-out keyboard. At work the next day, incorporating my work into the report was a case of plugging the phone into my office PC and pasting the content into the report. It might have been easier with a laptop, but possibly not given that cramped data rooms often don't have either the desk space or power plugs necessary to make laptop use viable.

#### Challenges for businesses

Having got to grips with employee use of the internet at work, businesses now have to tackle the risks coming from these mobile devices. Law firms are not excluded from these risks.

Many businesses restrict employee internet use, for example by using internet filters to stop access to Hotmail. Those businesses will struggle to do the same with personal mobile devices; the only solution is to ban them all together – not likely to be workforce-pleasing move. The new generation of mobile devices therefore means that employers wil have to move towards a more trust-based relationship with their employees when it comes to technology.

A more significant risk is sensitive business data going walkabouts. This danger has existed for some time, with memory sticks allowing people to easily and subtly copy data from computers. With high-profile personal data losses having been suffered/committed by public and private sector bodies recently, this is a challenge that businesses must look to tackle, both through technology and policies.

#### **Conclusions**

Mobile devices are a rapidly developing and exciting field, one that looks to give us a massive amount of choice in how and where we work.

With rapid technological developments and everything still to play for in the battle for users, it's impossible to tell how things will pan out. However, hopefully this article will have given you a taster of what's happening now.

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## SharePoint – powerful and http://www.ss.include-jost/documentViewer.aspx?fid=02af9e5b-f5ec-4d77-be3b-ba6354372837 rather scary

#### By Alastair Morrison

SharePoint is multi-purpose software that can serve many business and IT roles. It can ease staff, and authorised third parties', access to information, while maintaining its security and integrity. It can also enable individual and team collaboration and information sharing, thereby improving efficiency and productivity, and facilitating the production of high quality, consistent output.

SharePoint can be used in two ways: simply as Windows SharePoint Services 3.0 (WSS), or as Microsoft Office SharePoint Server 2007 (MOSS).

Windows SharePoint Services 3.0 is a free downloadable add-on to Windows Server 2003 and provides the tools to construct SharePoint sites. These are websites built from "site templates" which provide different functions, eg document library, meeting workspace, shared calendar, discussion board, contacts list, wiki, blog. The user accesses SharePoint sites with a web browser or directly from Microsoft Office programs. Features of WSS include document management, basic portals, collaborative working and workflows. It can be used without MOSS.

Microsoft Office SharePoint Server 2007 is paid for. It has all the capabilities of WSS which it runs on top of, better document management, indexed enterprise search, content management, and business data analysis capabilities ("business Intelligence"). It also has tight integration with Office 2007 and can aggregate the data from multiple WSS sites.

#### Roles

MOSS includes templates for building **portals** – divisional portals, enterprise-wide portals, or even externally facing corporate web sites. It has tools to combine the content of WSS sites and that from other non-SharePoint sources, and to set navigation possibilities and individual security permissions.

In MOSS each user can have their own personal portal presenting information relevant to them. This might be regarded as Microsoft's attempt at corporate social networking (MySpace becomes MySite). A "MySite" has a private and public view and the particular user concerned controls what is seen and by whom. These sites constitute one mechanism by which legal knowledge sharing can be increased.

A firm portal can be restrictively and securely opened to specified third parties (clients or partner bodies). Thus the "virtual dealroom", or extranet (a workspace for sharing and working with outsiders) can be achieved. Extranets may be used, for example, to enable clients to monitor the progress of their matter or for reviewing and commenting on documents with another firm. The legal services reforms (the Legal Services Act 2007 received royal assent on 30th October 2007) impelling firms to be both more transparent to their clients and efficient when working with others are likely to enhance the appeal of implementing such extranets.

**Document management** capabilities provided in at JDSUPRA

- Access control, to determine who may access which documents, and what they may do with them.
- Version control, which allows the tracking of when document changes were made and by whom, plus the ability to view and restore earlier versions.
- Document workflows. These enable the enforcement of approvals and reviews, in the correct order, by particular individuals, at the appropriate stages of an electronic document's development. MOSS comes with pre-defined workflows; in WSS you build them vourself.

MOSS further distinguishes itself from WSS by providing a fully fledged content management system. Thus information management policies can be implemented across the firm. For example, to ensure compliance with legal obligations and/or corporate guidelines, a prescribed retention period can be enforced for a document, or its deletion after a certain event, date, or period of time, can be set.

Put all these elements of content management together, apply them in the context of a workspace equipped with a document library, and you have arguably got a rudimentary form of case (or matter) management. Simply create one such site for each case/matter.

MOSS accommodates **search** of multiple data sources, from a single interface, with a single guery. Security permissions can be set on data items to ensure that a person will not see references in their results to that to which they do not have access.

MOSS indexes and finds information in many types of repository (eg SharePoint document libraries, file shares, web sites, Exchange public folders), both internal and external (to the firm), whether those stores are structured (eg databases) or unstructured (eg

Within MOSS, business intelligence "dashboards" can be created. These display performance information from disparate back office systems. Partner viewing of "key performance indicators", extracted from such sources, will probably become more common.

Ease of disseminating information, team-working, producing one's own online material, are all aspects of one interpretation of what is termed "Web 2.0". SharePoint, with its emphasis on knowledge sharing and easy content creation, might be viewed as falling under that label. Certainly the MySite feature already mentioned is easily describable as such, and other services which WSS offers that are consistently discussed under the Web2.0 banner are wikis, blogs and RSS.

> The original do-it-all product can still be purchased from www.swiss-memories.ch

#### Office 2007 integration

The combination of SharePoint and Office 2007 has added attractions for those used to working within the Microsoft Office suite. For example, WSS offers the ability to synchronise, through Outlook, local and server copies of Sharepoint document libraries. One can work offline on the master copy of, for example, a checkedout Word or Access file, then synchronise the modified document back into the server library as the new master copy. One can also stay in Outlook and use *its* search tool when conducting a SharePoint search.

Excel Services allows Excel 2007 workbooks to be published in a SharePoint page. Any browser can then view the page.

InfoPath 2007 plus Forms Services allow the creation of electronic forms (which could be part of a workflow) into which users (clients, business partners, colleagues) can enter data. Electronic forms facilitate efficient, consistent, timely data gathering. The InfoPath client is not essential for entering data, this can be done via a web browser, and the forms can be saved, and data entered, offline.

#### System requirements

The Windows Server 2003 operating system is needed, and as part of the SharePoint installation specific Windows components (eg ASP.NET 2.0, .Net Framework 3.0) will be downloaded, installed and/or upgraded as necessary.

For MOSS Microsoft suggests that a basic scenario contains 2 physical servers. One server is the "frontend", running the IIS web server (which users connect to) and the indexing and search function. The other is the "back-end" database server, which requires SQL Server 2005 as well as SharePoint. (Sharepoint stores all configuration and content data in SQL databases).

WSS can be deployed on a single machine. A basic WSS installation includes a run-time database, so no separate SQL server is necessary.

Minimum hardware requirements are similar for MOSS and WSS.

#### **Pricing and licensing**

WSS, as noted earlier, is free. This fact, and the wealth of out-of-the-box features it comprises, arguably makes it ideal for smaller firms.

For each MOSS installation a valid MOSS licence must be purchased, plus of course the appropriate licences for Windows Server and SQL Server. For each MOSS client a Standard Client Access Licence (CAL) must be purchased, and if SharePoint's enterprise features are enabled on a server, then clients accessing the enterprise functions should have a valid Enterprise CAL in addition to their Standard CAL.

SharePoint licence price estimates from Microsoft, January 2008, are: Server \$4424, Standard CAL \$94, Enterprise CAL \$75.

#### **Downsides?**

Is SharePoint straightforward to implement and manage? The answer depends on whom you ask.

The product was designed to be one in which non-technical users can "help themselves" to its services. For example, SharePoint sites can be built by users selecting and customising predefined templates, making it easy for them to create, and populate, their own workspace websites for different projects. Likewise they themselves can apply a workflow to an item they have deposited or created. This arguably reduces the need for, or burden on, IT support personnel.

However this self-service aspect of SharePoint could

prove to be a management headache. For example at JDSUPRA whiless clear firm level data management policies are 639-ba6354372837 applied, and strict central control maintained, an organisation risks compliance failures and mountains of redundant data.

It has also been argued that the sheer breadth of MOSS is a weakness, and that while using it as a basic file-sharing and collaboration tool is fine, if you want to do more than that then good consultancy or IT support is necessary. Microsoft on the other hand claims that it can direct you to partners who can provide the expertise and support needed if you wish to do more complicated things.

#### **Hosted SharePoint**

The burden of installing and maintaining software is a problem for firms that have little or no professional IT support. However the advent of ubiquitous, fast, reliable broadband has been an incentive for companies such as Google, Microsoft and others to offer an alternative to in-house IT. They have developed new and adapted existing programs, creating software that the user does not need to install, run and maintain themselves but uses over the Internet, renting it from a company which performs those tasks. As well as removing the burden of running the product, this subscription to a service model is less financially onerous than large upfront licence fees.

Microsoft itself, and partners of it, provide SharePoint as a service in this way. Indeed Microsoft actually provides a directory of Web Hosting Partners offering Windows SharePoint Services 3.0 online. Microsoft also offers shared workspaces (as well as many other hosted services) for £11.99/month (Essentials) or £22.99/month (Premium) as part of its "Office Live" hosted services initiatives, aimed at small businesses.

#### **Users?**

Which firms are actually using SharePoint? One example is Lewis Silkin, which is implementing MOSS for document management, intranet, extranet and workflows. Irwin Mitchell has a new company intranet based on MOSS, and Linklaters, a user of SharePoint Portal Server 2003, is moving towards MOSS. Reports of smaller UK firms using SharePoint are harder to come by.

Alastair Morrison is a lawyer who implements and manages ICT services at Strathclyde University and writes on IT topics relevant to law firms. He is particularly interested in maximising the use of generic software in legal practice and in addressing the IT needs of smaller firms and is willing to answer questions relating to SharePoint.

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**Note:** Detailed references and links are available in the online version of this article.

In the next issue: David Gilroy of Conscious Solutions will cover out-of-the-box intranet software called Intranet Dashboard. We would also welcome contributions from readers on any other intranet/portal products that they use in their firms or chambers; please email Delia at <a href="mailto:delia@venables.co.uk">delia@venables.co.uk</a>.