Internet Newsletter for Lawyers & Law 2.0

Making the most of the legal web   November/December 2007

Introducing Law 2.0

The internet is changing from a one-to-many broadcasting medium to a many-to-many communications system. It is becoming a shared resource where anyone can put forward their ideas, amend or correct the ideas of others, talk to their friends, locate long lost friends or find new ones, create and load up pictures or video clips or set themselves up in virtual worlds.

This "new" internet is referred to as Web 2.0 and lawyers are already taking part eg:

- There are more than 130 UK law blogs by firms, solicitors, barristers and others.
- There are many examples of in-house wiki projects for knowledge sharing and document creation, for example at Allen & Overy.
- Serious attempts are being made to fulfill Richard Susskind's public law wiki dream with the creation of wikis in specific areas of law, such as WikiCrimeLine, Wiki Mental Health and a prospective IP Law Wiki.
- Social networking on Facebook and other networks can be used to establish workplace networks. Firms doing this already include Linklaters, Allen & Overy, Baker & McKenzie and DLA Piper.
- Virtual worlds are places to do real business. Field Fisher Waterhouse established the first virtual UK law firm on Second Life earlier in 2007.
- DivorceOnline recently became the first firm to market its services with an advert placed on the video sharing website YouTube.

We will be covering all these aspects of Web 2.0 for lawyers (aka Law 2.0 – hence the addition to our title) as well as all other uses and information sources of the internet as they relate to lawyers.

This Newsletter has always been at the cutting edge of the internet for lawyers and we intend to stay there!

What is Web 2.0?

By Nick Holmes

The phrase "Web 2.0" was coined by Tim O'Reilly in 2003 (tim.oreilly.com) and refers to the way software developers are now using the web as a platform for delivering applications to end users and the consequent transition of websites from isolated information silos to sources of content and functionality. It is often referred
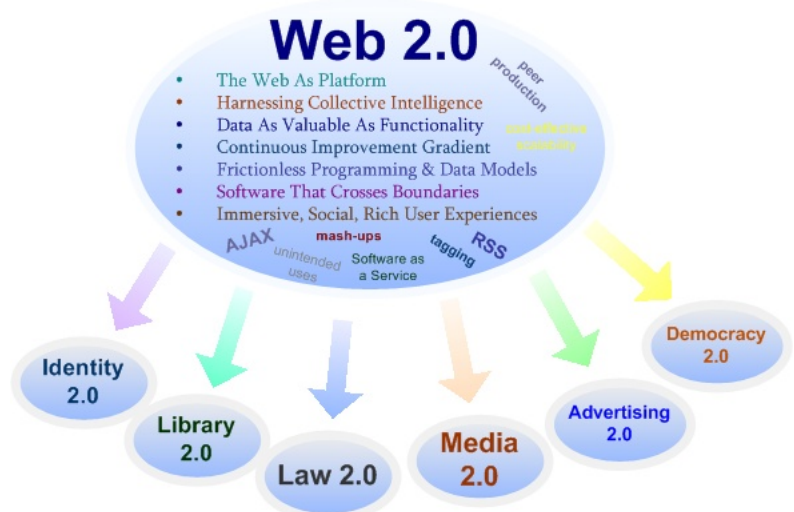
Web 2.0 and its offshoots as represented on Dion Hinchcliffe's Web 2.0 Blog (hinchcliffe.org)

to as the "participatory web" or the "read/write" web which exploits the many-to-many potential of the internet, connecting individuals to each other. This contrasts with Web 1.0, the "read-only" web of information sources and transactional sites that streamline one-to-many services between producers and consumers.

For a service to be perceived as Web 2.0, the key attribute is that it should enable user participation: both contribution by users and sharing, collaboration or networking between users. Consequently these services are also referred to as being "social" – as in the terms "social software", "social networks" and so on.

Following are some of the dominant services generally regarded as epitomising Web 2.0.

Blogs are online journals published in a particular format: the home page presenting most recent items (called "posts") and archive pages presenting collections of past posts, typically by month and category. User contributions are enabled via comments to individual posts.

Wikis are collaborative websites whose pages can be created and edited directly on the web by anyone with access to the wiki. The best known is Wikipedia (en.wikipedia.org), with 2 million articles in English currently published. But wikis can be used for the collaborative development of any type of publication –

from encyclopedic projects, through dictionaries, text books and other reference works, to individual documents such as draft contracts and policy documents, agendas and so on.

Social networking services focus on the building and verifying of online networks for communities of people who share interests and activities or who are interested in exploring the interests and activities of others. They provide a collection of ways for users to interact, such as chat, messaging, email, video, voice chat, file sharing, blogging and discussion groups.

Social bookmarking is a way for internet users to store, classify, share and search internet bookmarks. The best known service is del.icio.us (del.icio.us).

File sharing has been a feature of the internet for many years, pre-dating Web 2.0, initially used for the "sharing" of recorded music and software programs. Now photo sharing services such as Flickr (flickr.com) offer a convenient platform for storing archives of digital photographs, for sharing these with friends and showcasing work, and video sharing services such as YouTube (youtube.com) host video clips and primarily provide entertainment.

Virtual worlds are computer-based simulated environments in which users interact via "avatars", ie two- or three-dimensional graphical representations of humanoids. Initially most commonly used for so-called massively multiplayer online games (MMOGs) such as World of Warcraft (worldofwarcraft.com), virtual worlds are now increasingly used to mirror real-life interactions. Popular examples are Club Penguin (clubpenguin.com) and Second Life (secondlife.com).

The web as a platform

The participation and collaboration on Web 2.0 sites is made possible because the web is used as a "platform" – ie programs run, and databases are stored, on servers on the internet; anyone can access them from anywhere, and connect and interact with anyone else on the same network, using just a web browser.

In addition to the classic Web 2.0 services indicated above, there are many other services which seek to replace and improve on the commonly-used, single-user or locally-networked office applications. Although they currently lack some of the functionality of their desktop counterparts, these services are attractive as they are available from anywhere and accommodate collaboration and sharing. For example, Google's Docs & Spreadsheets (docs.google.com) is a web-based word processor and spreadsheet application which allows users to create and edit online while collaborating in real-time with other users.

Closely related is the term "software as a service" (SaaS) – the model whereby a software vendor hosts and operates an application for use by its business

customers using the web as a platform. Customers pay not for owning the software itself but for using it. SaaS is typically seen as a low-cost way for businesses to obtain the benefits of commercially-licensed, internally-operated software without the associated complexity and high capital costs. It is, if you like, the closed, "business end" of Web 2.0. Typical examples of SaaS applications are customer relationship management, video conferencing, human resources, accounting and email.

Tools and techniques

There are many different tools, techniques and technologies that contribute to the functionality of Web 2.0 sites. Here are some of the key ones that are used in many applications and are most responsible for the rapid development of new services.

RSS (Really Simple Syndication / Remote Site Syndication) is a family of standard XML data formats used to publish "feeds" of latest information from news sites, blogs and other databases. A feed contains headlines and links to latest items and either excerpts or the full text of the items. RSS makes it possible for users to keep abreast of developments in an automated manner using a feed reader or aggregator. RSS feeds can also be readily incorporated into others' web pages, enabling third party sites to publish live information syndicated from the publisher's site.

Tags are simply keywords or terms associated with or assigned to pieces of information or items. Tags are used in most Web 2.0 services to categorise items and are usually chosen informally and personally by the author, creator or consumer of the item.

Folksonomies are user-generated taxonomies created from tags. Folksonomies are intended to make a body of information increasingly easy to search, discover and navigate over time.

AJAX (Asynchronous JavaScript and XML) is a technique used for creating interactive web applications which avoids the need for entire web pages to reload each time users request a change.

APIs (application programming interfaces) are interfaces that enable programs to use facilities provided by other programs.

Mashups are web applications that combine data from more than one source into an integrated experience. The most common implementations are those built using Microsoft, Google, eBay, Amazon, Flickr and Yahoo APIs. For example, OnOnemap (ononemap.com) overlays details of properties for sale and other local amenities onto Google Maps.

Trackback is a method by which web authors can request notification when somebody links to one of their documents. Trackbacks are used primarily to facilitate communication between blogs.

What's in it for lawyers?

Inevitably, Web 2.0 has spawned numerous industry-specific buzzwords: "Gov 2.0" is Web 2.0 in the context of government, "Library 2.0" is Web 2.0 as it relates to librarianship, and of course "Law 2.0" is Web 2.0 for lawyers.

What relevance does Web 2.0 have for lawyers and the provision of legal information? In short, it enables lawyers, as much as others, to collaborate effectively, learn from each other, network, serve themselves and cut out the middle man.

Collaboration

Most lawyers do now use technology to work together on documents, projects and cases, and they increasingly use the internet to share documents, videoconference and so on.

The benefits of collaboration have become clearer to lawyers as the use of free and low-cost Web 2.0 tools such as blogs, wikis and the many other online office applications has proliferated. At the same time, their clients are using technology to collaborate and expect them to follow; in some areas (IT/IP in particular), they may even be expected to lead.

Knowledge acquisition and sharing

Law is a knowledge business. Web 2.0 tools such as RSS feeds, social bookmarks, blogs and wikis provide extremely efficient and effective means to gather information and harness and distribute collective knowledge.

Social and business networking

Web 2.0 effortlessly connects users to users – the many to the many. Social networks such as Facebook and Linkedin and the networked communities that evolve through blogging provide effective ways to keep in touch with those of like interests and to expand business networks.

Marketing

To give just some examples, blogs provide an effective, low-cost way to establish individual lawyers as thought leaders in their fields and to promote the expertise of firms and chambers; video sharing on YouTube or podcasting can spread recorded marketing messages virally at no cost once the recording is made; and a presence in a virtual world such as Second Life can operate as an effective complement to a real life shop front.

Outsourcing

Many in-house office functions can be outsourced via the web using "software as a service", replacing high capital and maintenance costs with low monthly fees for everything from email hosting to human resources management.

Legal information services

Web 2.0 is rapidly changing the playing field in most spheres of publishing, and law publishing is no exception. For example:

- Blogs enable individual lawyers or small groups easily to publish news and comment and showcase their expertise. Many bloggers are establishing themselves as leaders in their fields and winning attention previously focused on commentators in the traditional media.
- RSS feeds deliver constantly-updated latest information from government, blogs and news sites, in many cases, in aggregate, reducing the appeal of conventional current awareness services.
- Wikis are effective collaborative publishing tools with many advantages over more conventional publishing systems.

And of course there is now a vast corpus of free public sector information to tap into.

Web 2.0 has the potential for individuals and small players in concert to upset the law publishing status quo. At present LexisNexis, Westlaw and other specialist law publishers win and retain business not just because they provide comprehensive access to up-to-date law, but because of their valuable added commentary and other features. The freeing up of legal information will begin to have significant impact when Web 2.0's potential for leveraging and adding value to that information is better understood. How best to marry the increasing amount of independent commentary from the web with newsfeeds and comprehensive and up-to-date public access source materials is the challenge of "Law Publishing 2.0".

Nick Holmes is joint editor of this Newsletter.

A much-extended version of this article is published in the Legal Web e-book on Legal Information and Web 2.0 (www.infolaw.co.uk/ebooks).

Law resources on Europa

By Patrick Overy

Although the original version of Europa, launched in in 1995, simply provided a basic overview of European policies, the site has now become a single access point for official information from all the European institutions. Researchers at all levels, from school children to professors, can find relevant material, and also have direct access to official documents, most of which are now published online. According to its own statistics, Europa currently contains over 6 million documents, taking into account different language versions.

The European Commission has been a leader in the use of information technology since the 1960s, largely because of the logistical problems of producing legal documents simultaneously in a number of official languages. Europe pioneered the use of services like automated translation tools and developed full text databases well before most individual countries. Celex, the official legal database, was originally set up in 1969 and was followed by a number of specialist databases, all of which were developed originally for the internal use of the Commission. Although many were made available to specialists in European information, like the network of European Documentation Centres based in universities around the world, access outside these networks was normally only possible through commercial versions provided by services like Justis, Lawtel, LexisNexis and Westlaw.

Free online access

Since the arrival of the internet, free online versions of these databases have been provided as part of the new improved Europa. However, because European law is still a very specialised field, a fairly detailed knowledge of how the European Union works is needed to make the best use of these services.

A user-friendly web version of Celex was launched in 1997 to improve access to European legal information and this became free, thanks to a resolution of the European Parliament. A second service, Eur-Lex, was officially opened by the European Commission in 2001 to provide a single portal which could be used both by lawyers and the general public. While its creation was prompted by a new drive for openness, it also provided huge gains in efficiency because official documents, especially the *Official Journal*, could now be published online. Although the more comprehensive Celex was initially run in parallel, the two sites were combined at the end of 2004 to create a single free access database and Celex has now been closed down.

Eur-Lex has benefited from the huge amount of work put into making Celex more user-friendly and is continually improving. As it has absorbed the contents of the older database, it now contains an impressive amount of material (1,400,000 documents in total, according to the website) much of it available in all (currently 23) official languages. Access to the database is free and straightforward, although a basic knowledge of Community law and institutions is needed.

"Collections" on Eur-Lex

Eur-Lex (eur-lex.europa.eu) is now the essential source of legislative documentation from the EU and is more or less complete. This has been achieved partly by using links to other services within the institutions to avoid duplication of effort. In addition to both series of the *Official Journal* (Legislation and Information and Notices), which are available since 1998 in full text in PDF format, the database consists of six distinct collections: Treaties, International Agreements, Legislation in Force, Preparatory Acts, Case Law and Parliamentary Questions. These can either be searched individually or by a General search across all files. The Simple search form is straightforward to use, with full explanations given for each option, and is adequate for most people's needs An alerting service, LexAlert, is still promised but is not yet available. Most early documents are only available in HTML, although recent publications are usually also available in PDF. The first two collections, Treaties and International Agreements, have only recently been completed.

Treaties actually only contains the text of the treaties published in the *Official Journal* since 1997, although earlier texts can be ordered online.

International Agreements are joint agreements made with third countries or international organisations, and the file can be searched by subject or by browsing the classified sequence. Links are also provided to the databases maintained by the Council of the European Union and by the European Commission.

Although the printed Directory stopped publication in 2004, **Legislation in Force** is still updated online on Eur-Lex. The classified sequence is a useful way of checking the legislation in a particular area of law and whether it has been amended, although the arrangement can sometimes be ambiguous, and it is easier to use the shortcuts provided by Europa mentioned below.

The only kind of **Preparatory Acts** available so far are Commission (COM) documents, which includes all draft legislation but also includes Commission reports of all kinds. The Simple search form allows other kinds of document to be searched, including the resolutions of the European Parliament, but the collections cannot be browsed in the same way.

The **Case Law** section has the text of the European Court Reports since the beginnings of the European Court of Justice, in 1954, and is now updated on a daily basis. Since the official texts are now published at least two years late because of the delays caused by translation and legal checking, this has improved public access hugely. The file is searchable in a variety of ways, although searching by parties is not yet available.

A wide range of help features have now been incorporated into Eur-Lex, both at the level of individual screens and as detailed guides available by clicking on the Help button on the top toolbar.

Keeping up to date

Another major improvement in Eur-Lex has been in linking to other services. Although it has been possible for many years to track the progress of legislation by using the Legislative Observatory of the European Parliament (OEIL) and PreLex, which monitors the decision-making process between institutions, these services have been under-publicised and difficult to use. Now both have been re-designed and linked to Eur-Lex. If you need to find either how a current proposal for legislation is progressing or to see if a directive is now in force, click on the bibliographic description below the entry and scroll down to Procedure, where links will take you directly to the relevant section. Both of these databases give a complete list of all the documents produced in the legislative process and provide links to any available electronic versions.

Another feature which has been promised for many years is a way of tracing how directives are implemented in individual member states. Sadly there is still no reliable way of doing this through Eur-Lex, although a lot of development work has been put into N-Lex, which is linked to the home page of Eur-Lex, although it is still flagged up as "experimental". N-Lex uses the Eurovoc thesaurus to find standard terms to search national legal databases, but the procedure is very laborious and there is still no reliable alternative to commercial services at a national level.

Court of Justice

Until the recent improvements made to Eur-Lex, Curia, the website of the European Court of Justice at (www.curia.europa.eu) was an essential source of information for anyone needing the most up to date judgments and opinions, since the draft versions have been uploaded on the site since 1997. As these are now readily available on Eur-Lex, Curia's case law section is less vital, although the party name search function does work here. Other areas of the site are still extremely useful, however, particularly in the section on European Union law in Europe. Since the Court is the final arbiter in interpreting the provisions of the Treaty, it maintains collections of decisions made by national courts and also has a comprehensive directory of institutional and legal internet sites in all member states. There is also an essential collection of documents on the Brussels and Lugano Conventions, the basis on which the jurisdiction to be used in a case is decided.

Cooperation with other countries

Developments in Justice and Home Affairs, the so-called third pillar of the European Union, are gradually extending the areas of cooperation between the police and judiciary in different member states. As more people move around Europe, legal research increasingly requires some knowledge of other jurisdictions. A number of sources of information have been established, which are valuable to citizens as well as to legal practitioners. One of the most important is the European Judicial Network in civil and commercial matters (ec.europa.eu/civiljustice). This site provides summaries of the legal system in each member state of the EU and detailed accounts of court procedures and rules in areas such as divorce and arbitration.

Where else to look on Europa

While Eur-Lex is the prime source for legal research, there are other areas of Europa which are equally useful. To make it easier to find all relevant information on a given subject Europa now has a menu of 32 policy areas under the heading Activities. Each subject page is divided into two columns: a list of key sites on the left hand side is headed by a link to the home page of the relevant Directorate-General within the Commission; summaries of legislation on the right provide a useful shortcut to the legal information, while below, direct links are provided to the appropriate sections of the Treaty and to other legal texts.

Although all the Directorate-Generals' sites have some legal information, a few are particularly important for detailed legal research. The Competition website is one of the most valuable, as it has extensive collections of legislation, decisions and court judgments and is essential for anyone interested in competition policy. It is intended for specialist users, however, and has little introductory material, although there are sections on specific sectors, eg services and sport, and policies.

DG Employment and Social Affairs has a well-organised site for serious research on all aspects of employment law and policy. It includes collections of legislation and implementation reports, as well as background reports and collections of key documents.

DG Internal Market's website is an essential source of information for business lawyers, especially in areas like company law, copyright and financial services. Although most of the information is aimed at specialists, there are also services designed specifically for citizens and businesses.

Commercial providers

Since Eur-Lex now provides such an extensive service for free, the role of commercial services like Justis, LexisNexis Butterworths and Westlaw in providing access to European law is becoming less obvious. Until recently they were able to point to a definite advantage in value by uploading documents – particularly case law – that was delayed in Eur-Lex, by indexing and by including the text of non-official series, such as All ER (European cases). Most of the major legal databases have re-designed their sites recently and, apart from Lawtel, have integrated their European content into general searches for cases and legislation rather than providing separate access to EU materials. The advantage offered by any of these services is in providing a context to EU law for lawyers operating at a national level. It is, however, well worth investigating the vast amount of information now provided free.

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A fuller version of this article is published in the Legal Web e-book on Legal Information and Web 2.0 (www.infolaw.co.uk/ebooks).

Remote access and flexible working

By Jan Durant

Nowadays there is no reason why people can't work remotely – or flexibly – if they have all their information stored electronically and the systems and security in place to support them. Remote access requires documents to be scanned on arrival, wherever they arrive, so they can be made available (electronically) at locations where the paper file is not available. Once documents are stored electronically, the equivalent of the paper file can be recreated wherever it is needed.

Considerations

There are various reasons why many firms have made remote working not just another tool, but a strategic goal. Some key drivers are:
- availability of information when out of the office
- disaster recovery – if you can't get to your office for any reason (eg avian flu outbreak, terrorism, flooding, foot and mouth, transportation issues) you can continue your business by making your systems available remotely
- cost-effectiveness, efficiency, job satisfaction and the ability to attract staff with higher levels of skill
- employment law legislation – in some circumstances employers actually need to have grounds to refuse to allow flexible working (eg where the request is made to accommodate child care).

Before you look at the technology, you need to think about what you want to achieve. Then, the technology can then be found to fit around that! You need to ask yourselves many questions and to come up with a remote working policy which covers the following:
- who is going to pay for what? (PC, printer, other hardware, paper, toner, internet connection, mobile device bills, antivirus software, software licences)
- health and safety risk assessments at home
- security
- who is going to resolve technology issues – the existing IT staff? Or will they need to outsource some of this function?

- what do your remote workers need to be able to do: use email, make/receive telephone calls seamlessly, send/receive faxes, record time, dictate, scan/print/ photocopy, use Word/Excel/PowerPoint etc, have access to client files, video conference?

Options available

Here I list the more common remote access technologies available which I think would be of interest to law firms. These solutions are by no means exhaustive – there are many others out there.

Blackberry versus Windows Mobile device

These are the things you carry around in your pocket and leave in cabs, bars and other people's offices. There are various models of hardware for both. Depending on the device you have, the functionality can include allowing you to send and receive emails, make and receive mobile calls, browse the internet and view and synchronise all Outlook contacts, calendar, notes and tasks.

The advantages of Blackberry over Windows Mobile? Until recently they "just worked", they required virtually no training for even the most Luddite of lawyers, and of course they have captured the legal market place. And until recently emails were delivered to the Blackberry without the user requesting them – unlike the Windows Mobile devices which required the user to download their emails. Most attachment types – such as .DOC and .PDF – can be opened on the later models of Blackberry device.

Major advantage of Windows Mobile over Blackberry? There is a cut down version of Word and Excel so you can not only view your documents and spreadsheets – you can work on them … and good luck to you with a screen which fits in your pocket! Software vendors are increasingly developing applications to sit on Blackberry and Windows Mobile devices, for example, time recording, digital dictation, integrators with your document management and client relationship management systems and even satellite navigation. I'm looking forward to the add-on which will have a "click into chill" mode so I can immerse my device in my drink to save looking for the ice bucket!

Unified messaging

This integrates with your switchboard and Outlook so voicemails and faxes go direct to your Outlook, InBox. You can then dial up from a landline or mobile and listen to your voicemails and emails – though not to faxes. Sounds great – and this was one of the main selling points to us all those years ago when we didn't have Blackberrys – but in reality listening to emails is rarely used. You can tap your telephone keypad to skip through the disclaimers, etc but it's clunky. It does come into its own though when there are no other means available to access your emails.

Voice Over Internet Protocol (VOIP) telephony

This is an entire topic on its own, so I'm not going to go into it in any depth. But VOIP is widely acknowledged as the way to go as far as your internal telephone systems are concerned. Once established as the internal telephone system, in addition to lowering telephone costs, VOIP gives remote workers more functionality than is available with the traditional office-based PXB so the remote worker can seamlessly make and receive calls via the internet.

Outlook Web Access (OWA)

This makes Outlook into a "hosted" application, rather like web email. Microsoft's OWA has been available in later versions. This is obviously for Outlook only and has limited functionality over the full desktop version – though with OWA 2007 the functionality gap is closing. It requires no installation so your Outlook account can be viewed from any PC with a browser and for this reason it should be secured. It is accessed by using your Windows login name and password.

Citrix/Virtual Private Network (VPN) and hosted access solutions

If you want to work in the same way as you would at your PC in the office, though, the above solutions will not meet all your requirements, so you will need to consider Citrix/VPN or a hosted access solution.

A VPN is a private network that is configured within a public network (usually the internet). The idea of the VPN is to give the organisation the same capabilities at much lower cost by using the shared public infrastructure rather than a private one.

Citrix produces software designed to facilitate secure access to applications and content. One of the major issues confronting IT people today is how to provide secure access to corporate electronic information to people who are physically located outside of the corporate network. In today's world, people working after hours all need real-time access to resources on corporate networks. For security reasons, applications such as time recording systems, document management systems and email systems are protected by firewalls so that users outside the law firm cannot access them. With the latest version of Citrix, software does not have to be installed on the user's home PC or laptop.

While Citrix is a corporate, secure, controlled remote access solution which uses less bandwidth than running applications over a VPN, there are other hosted remote access solutions available. Some have a monthly fee attached, some are free. GoToMyPC, GoToAssist, LogMeIn are some examples of these products. There may, though, be security issues with these products, and I am not sure how suitable they would be for use by law firms. One main sticking point may well be that a law firm's IT Department cannot control or has no audit trail on what information is leaving the firm and that may leave the partners feeling uncomfortable with these solutions.

Satellite phones

The satellite phone is a type of mobile that communicates directly with communications satellites orbiting the Earth – which means coverage is potentially global. There is no communication service available for Blackberry etc in out of the way places, for example the Maldives or Nepal. Lawyers are therefore left with one solution – take a satellite phone. These can be connected to laptops to dial up an internet connection from out of the way locations, or simply used as a telephone to communicate. This is an extremely expensive solution – and the alternatives of holidaying in the Dordogne or delegating the matter to a colleague should be considered first!

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Electronic presentation of evidence

By Lisa Burton

Electronic Presentation of Evidence (EPE) is an IT-driven alternative to paper-based presentation in a room being used for a legal hearing, usually a court or arbitration room. Most commonly it will consist of scanned pages of documents being stored on a computer which are made available to the participants of the hearing via presentation on screens dotted around the courtroom, but the term EPE also embraces other technologies such as video links, 3D graphics and virtual reconstructions – anything that will aid the clarity of the case being presented or is required for the smooth running of a hearing.

Although this may sound alarming, the purpose of technology is that it should help, support and underpin a process rather than take over from a tried and tested methodology. Counsel should not be aware that as he or she is presenting their case, an operator is quietly illustrating the points being made using highlights, arrows, zooms and stamps.

In its crudest form, EPE has been around since the 80s and there is now an extensive array of reliable technology as well as an even longer list of whistles and bells for clever tricks, if required (though not always recommended).

Typical use

EPE was first used for heavy-duty fraud cases where the sheer volume of documents and the complexity of the case lend themselves to an EPE solution. Members of the Bar are rightly proud of their advocacy skills but a picture can paint a thousand words. Encapsulate the movements of a money laundering chain in an animated PowerPoint presentation, and you make your point much more clearly than using words alone.

In recent years, EPE has also been used in large disputes in the Technology and Construction Court, where complexity and volume often conspire against paper. Multiple formats of 'document' often form the evidence in such cases, and the facility to show a publicity film, technical reports, emails and site plan diagrams on the same equipment is invaluable.

There is currently a huge growth in dispute resolution and arbitration: the increased use of EPE can radically speed presentation, aid understanding and promote fair judgement – and with an estimated 300 arbitrations per year, that's a very substantial cumulative gain.

Benefits

EPE saves time and money and it also makes case presentation much easier to follow. It is also worth noting that the benefits increase, the earlier in the legal process it is used.

It is widely accepted that EPE can save approximately one third of court time and costs in criminal trials: it takes an average of 3.5 minutes for everyone to locate the specified paragraph within the specified document within the specified folder, whereas it takes 2-3 seconds per call out to bring up that same paragraph on screen – and the more documents shown, the more time saved. Knowing that everyone is on the same page is more than helpful. While there is no Jury to factor into the calculations in a civil trial or arbitration, the time savings are still important. Add to that the fact that some of these cases are well in excess of 100,000 pages of evidence, a room equipped with the shelf space of a respectable sized library would be required to accommodate them, not to mention the logistics of 'moving in' for the start of the hearing.

The use of specific EPE software also makes for an extremely focused argument. No longer do you have to worry that someone is getting carried away with reading paragraph seven of the page when you wish them to look at paragraph four, even if paragraph seven is more interesting. Zooming in on the appropriate section of any given page will mean that paragraph seven is only addressed if and when Counsel wants it to be.

Ingredients of successful EPE delivery

There are two aspects: legal and technical.

From a legal perspective, litigators and counsel must ensure that they have total confidence in the quality of their data. An ordered, organised case with referencing formats agreed in advance bring smiles from all EPE suppliers.

Some people think that EPE, with its clever visuals and technical wizardry, can be used to make a weak case strong. In fact, the opposite is true – EPE will merely show up a weak case even more sharply.

From a technical perspective, it's all about using specialists who really understand how an eCourt has to function. There is no point in using a provider who offers an all you can eat price when 80% of the capability is unused. The technology should also be 'silent' and users should be almost unaware of its existence. Like the processor in the PC itself, it should thrum quietly away in the background, never drawing attention to itself. However, there's a huge gulf in capabilities in the supply market, particularly with regard to the actual courtroom operator. A skilled, experienced eCourt manager can be the difference between success and failure.

Effective case presentation

As anyone who has ever fallen asleep in a film will attest to, it is possible to get switched off by the visual performance in front of you, particularly when you are asked to do nothing but sit back and watch. It's the same with EPE. On many occasions, counsel rely totally on electronic visuals, whose soporific, relentless slickness just switches off people's attention. Those who are on the ball will mix things up a bit, deliberately making jurors pick up their paper bundles so as to keep them alert and physically involved. Air conditioning will not be enough!

"Electronic presentation of evidence (EPE) has the potential to save huge amounts of time in fraud and other complex criminal trials and should be used more widely." – *Protocol on control and management of heavy fraud and other complex criminal cases*

We also have to acknowledge that EPE is not perfect for everything. There are specific cases when it is useful, and many where it is essential, but for the daily grind, the old ways are sometimes the best.

Resistance to the use of EPE

Naturally, there are sceptics, but the list of converts grows with each case. And as I've touched on earlier, there are those who know that their best hope of winning their weak case lies in bamboozling the court with a detailed paper-based argument.

However, it is great to see many of the senior members of the law community championing the cause of EPE. It might be expected that they would be the most resistant, or at least the least interested, but it is by no means always left to 'Junior' to work the equipment.

Interestingly too, judges are increasingly aware of EPE's ability to save time and costs and sometimes insist on the parties using it, and the Judiciary, spurred on by a government eager to push through efficiencies wherever they can, are generally in favour.

Usage will rise, not just because of familiarity, but also because of the rapidly increasing volume of electronic evidence: evidence which is digital at source should be brought into court in that format.

There are issues to overcome. Data exchange formats need to be agreed, and more equipment installed as standard. It is quite possible that the future lies in the parties bringing their own data on their own computers and connecting into the existing infrastructure of a court or arbitration room. With the costs of these reducing daily as the technology moves forward, we cannot be too far away from all courts being permanently equipped for Counsel to plug into.

With new technologies being used in our private and business lives all the time, such as SMS, instant messaging and video conferencing, there will be no lack of digital content to present via an EPE solution.

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By Delia Venables

Most legal blogs in the UK are written by solicitors – perhaps this is just because there are more solicitors than barristers or perhaps also there are particular personality traits required to be a blogger! However, there is still a good variety of blogs from barristers available, described below, and probably there will be quite a few more in the months to come.

The two most important Bar blogs

Bar Blog (blog.barcouncil.org.uk) was launched in April 2007 by the Chairman of the Bar, Geoffrey Vos QC, designed not only for his own postings but also as an umbrella site for all other individual barristers who might wish to take part. His aim is to get a "conversation" going with barristers not only commenting on the posts of others but also contributing new posts and topics themselves to the blog for others to comment on.

Current Awareness from the Inner Temple Library (innertemplelibrary.wordpress.com) provides a blog of up-to-date information regarding new case law, changes in legislation, and legal news. The content is selected and updated daily by information professionals from the Inner Temple Library in London with full links to the original source of the information. There are usually many entries on any one day and this is a major current awareness resource. It is also noteworthy that the blog makes full use of the powers built into blogging software to categorise posts in their archive section, eg past posts are categorised (for just the first part of letter A) under abortion, adoption, advertising, advocacy, age discrimination, agency, agricultural holdings, air passenger duty, airlines, alcohol abuse….

Other blogs associated with barristers are all (so far) set up by individual barristers, rather than chambers as such. Perhaps, chambers are still considering whether this is a good idea. However, in the world of solicitors, there are now a number of blogs from firms as well as blogs from individual solicitors, so perhaps chambers will not be far behind.

Blogs from individual barristers

Bloody relations (bloodyrelations.blogspot.com) is a blog from barrister Jacqui Gilliatt about UK family law. The description of the blog is "Where there's a relative there's a bloody good argument to be had". The blog is associated with Jacqui's chambers website, 4 Brick Court (www.4bc.co.uk) where there are a large number of articles on family law and also a monthly "update". The blog is also associated with a wiki called familylawfaqs (familylawfaqs.pbwiki.com) which is still in its early stages. As far as I know, this is the only wiki set up by barristers, as distinct from solicitors.

BriefBlog (www.davidharris.me.uk) describes itself as "the travails of an English intellectual property IT and e-commerce barrister". The author is David Harris, an intellectual property barrister doing IP, IT and e-commerce law as well as some general commercial and civil law. He covers current issues in these areas in a straightforward manner.

Deaf Lawyers UK (www.deaflawyers.org.uk) covers issues relating to deaf lawyers, as well as deaf issues within the legal system. It aims to respond to access issues, publicise specialised information and raise awareness of issues deaf people face within the legal system. The site includes a Deaf Blawg (www.deaflawyers.org.uk/blawg). Prime topics so far are immigration, citizenship and asylum, and special problems for deaf people in these contexts.

The Barrister Blog (timkevan.blogspot.com) on "Law, Surfing and Politics" comes from Tim Kevan and Aidan Ellis of 1 Temple Gardens. Tim is also founder of PI Brief Update (www.pibriefupdate.com) and Law Brief Update (www.lawbriefupdate.com), two free email newsletters providing brief case reports, free of charge, to solicitors and other interested parties.

GeekLawyer (geeklawyer.org/blog) is written by an intellectual property barrister in private practice who acts primarily for clients in the electronic technology arena, but who does all IP/IT work in the UK/EU/US jurisdictions. "A barrister gossips and rants on intellectual property law, the legal system and civil liberties." It is written anonymously "to avoid embarrassment" but contains some good solid comment on legal issues.

Employment Law Blog (employmentlawuk.blogspot.com) is written by Charles Price, an employment law specialist and barrister with No5 Chambers. He covers topics relating to cases in employment law, such as how harassment is being used in claims against employers.

MossBlog, reached from the Agricultural Law Association (www.ala.org.uk) is written by Joanne Moss, a barrister at Falcon Chambers. She says "I try to put into perspective (for both lawyers and the public) UK legal change and issues by looking at EU and wider initiatives to solve common problems. Often I find humour works better than case references but links to the hard stuff are usually provided with EU materials."

NIPCLAW (nipclaw.blogspot.com) is written by barristers Toni Wilson and John Lambert and contains news and comment on English, European and overseas intellectual property, technology, media and entertainment and competition law.

PI Brief Update Blog (pibriefupdate.blogspot.com) contains news and views in the personal injury world, led by barrister Tim Kevan. The blog is designed to complement the free email PI Brief Update (www.pibriefupdate.com) which provides case reports from a number of barristers.

Pink Tape (legalfamily.wordpress.com) is a blog on family law from barrister Lucy Reed. She says "I'd like to think the blog can be a useful resource and / or an interesting diversion for other family lawyers and litigants in person and that more generally it might help to put forward a more human face of the bar in general and in particular the family bar. Small aims then!"

Pupilblog (pupilblog.blogspot.com) is written by a pupil in a straightforward manner, describing daily life and issues to be faced.

BabyBarista (timesonline.typepad.com/baby_barista) has the sub-title "Pupil barrister making coffee for the rich and famous". It is a diary of a barrister doing his pupillage – supposedly fictional, but one wonders. This blog has already received quite a lot of critical acclaim – a novelist in the making perhaps – and is now hosted on the Timesonline blog section.

Delia Venables is joint editor of this Newsletter.

Virtualization

By Kieran Gilmurray

Computers were originally designed to run only a single operating system and a single application but virtualization (usually spelt the American way) breaks that bond, making it possible to run multiple operating systems and multiple applications on the same computer at the same time.

Thus, one physical computer can function as if it were two or more computers – or "virtual machines" and each virtual machine can run its own operating system. Just like a "real" computer – a virtual computer contains it own virtual (ie software-based) CPU, RAM hard disk and network interface card (NIC).

An operating system can't tell the difference between a virtual machine and a physical machine, nor can applications or other computers on a network. Nevertheless, a virtual machine is composed entirely of software and contains no hardware components.

Virtualization has been getting a lot of press coverage recently with the issuing of VMWare shares (www.vmware.com) and the Citrix multi million dollar purchase of Xensource (www.citrix.com).

How can virtualization help?

At Wilson Nesbitt we are undergoing the visualization of all of our servers, desktop client operating systems and application software. Our virtualization project, originally born out of a disaster recovery business continuity plan coupled with a strategic review of IT systems, has resulted in a large number of benefits to us as a firm.

For example, the time it takes to provision a Windows server has now been reduced from weeks to literally hours. Desktop operating system installation and user account creation has been reduced from hours to minutes. The life of legacy software (written for earlier operating systems that we never seem to have time to upgrade) has been extended by years.

Less hardware has resulted in power savings, equipment purchase savings, backup tape and drive savings, reduced hardware support contracts and less server rack space. Applications can be set up for users remotely, often removing the need for an IT support person to visit the end user. Our disaster recovery plan, which involve moving and beginning to work from a second site, has been reduced from weeks to days.

More benefits

- Virtualization makes it possible to achieve significantly higher resource utilization by pooling common infrastructure resources.
- You can reduce the number of servers and related IT hardware in a server room or data centre. This leads to reductions in equipment floor space requirements, power and cooling requirements, backup tape drives and hardware support agreements, resulting in significantly lower IT costs.
- With new way of managing IT infrastructure, IT administrators can spend less time on repetitive tasks such as provisioning, configuration, monitoring and maintenance.

Costs and problems

- Whilst you do save time and money in the long term, installing the right solution takes time and money. Licence costs increase immediately and new hardware needs to be purchased despite the 'old' equipment still working.
- Not all software can be virtualised.
- Varieties of technologies must be used to create the right solution and it has taken us almost 18 months to find and implement the right mix of solutions. A great deal of IT time is needed to learn about these technologies and then to train staff to use them.

Conclusion

Virtualization is changing the computing landscape for many firms. This is a technology that won't go away. I recommend that you take the time to investigate it as there are considerable benefits for law firms to be had.

Further reading:
en.wikipedia.org/wiki/Virtualization
www.networkworld.com/topics/virtualization.html

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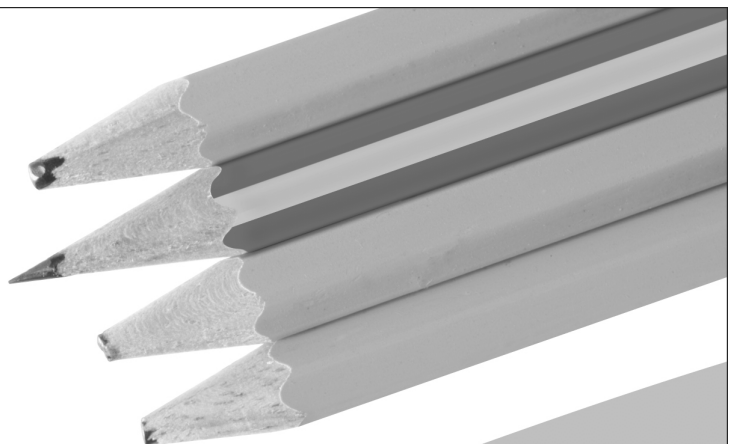
Stealing invisible assets

By David Flint

Sometimes it must seem idyllic to escape from the stresses and strains of this "real world" and take refuge in virtual worlds far from these worldly issues. Unfortunately, the scourge of copyright infringement has arrived in our virtual utopia.

The case which considers this issue is *Eros LLC v John Doe* (secondlife.reuters.com/media/SDOC1202.pdf), in which Eros, a Second Life Company, is arguing that a Second Life resident under the name "Volkov Catteneo" has infringed copyright in a Second Life program which Eros had written.

Life in Second Life

In Second Life, residents (as the players are known) carry out their everyday lives in a virtual world. They establish their own virtual homes, businesses and territories and make money (both virtual and real) by engaging in commercial transactions with other residents. Thus, I could purchase virtual clothes for my avatar (my online presence); commission someone to paint virtual art which I could hang on the walls of my virtual house; drive a virtual car and attend a virtual lecture. So, when my avatar (clearly an idyllic representation of myself) has finished sitting at my virtual pool surrounded by virtual supermodels and my fleet of virtual Ferraris, it (I?) can relax in my virtual Hawaiian shirt, enjoy a glass of virtual wine and look at virtual art.

After a few virtual drinks with my virtual supermodel friends, inevitably the virtual supermodels will find me irresistible and will endeavour to lead my avatar astray; and it is with this that the first copyright infringement case in Second Life is concerned. In order to understand the case, all that one needs to know is that, with the correct software virtual objects ("widgets") one can have one's avatar do almost anything.

Avatars can be dressed in ball gowns or swimwear with piercings and tiny tattoos, and residents with programming and Photoshop skills can reshape themselves into a virtual Tom Cruise or Kate Moss or just about any shape imaginable. Veronica Brown, owner-creator of Simone! Design, is supposedly making at least US$60,000 through selling virtual lingerie and formal wear for avatars of Second Life (see simonefanz.livejournal.com). With a little cash, users can also have people like Eros CEO Kevin Alderman transform their avatars for them. Unburdened by the

constraints or reality, avatars can be built with the physique and attributes that the owner wishes. In this dream world, the type of body-shaping done by Alderman's company Eros is evidently in great demand.

Buy this party dress for your avatar

At the Eros virtual storefront in Second Life, shoppers can try out a dragon bed powered by one of his SexGen engines. Along with programmers and designers, Eros employs a sales staff who hang around the virtual shop like real salespeople to pitch the perfect sex toys and Eros is continuously working or creating a more realistic virtual experience.

Eros is engaged in the sale of a number of adult themed virtual objects for use in Second Life, sold under the "SexGen" trademark. The items are sold to residents on the basis that they may not be copied; additionally the virtual objects have been registered at the US Copyright Office. The Eros Sexgen sells for about $45 a unit. Kevin Alderman (known on Second Life as "Stroker Serpentine) sold his plumbing business and now employs 12 people – programmers, developers and sales staff – to help meet demand for the SexGen on Second Life.

Copyright infringement

The action complained that the defendant had made a number of copies of the SexGen virtual objects which he sold as being authorised and legitimate copies. The counterfeit Eros SexGen Platinum Base Unit is said to animate coupled avatars in the same erotic manner as the "real" thing. It is not clear if the virtual avatars provide an accurate representation of real life of if they are faking it – and how would one know.

Evidently the "real" pretend virtual objects have sold thousands of virtual copies at $45 each.

In addition to the copyright infringement case, it is also alleged that Catteneo was using the Eros trade mark to assist in promoting his unauthorised copies.

So there we have it; the Eros case is really just a standard software copyright / trademark infringement case … or is it. There is no suggestion that Volkov Catteneo ever sold the objects outside Second Life. Indeed, the objects would not function elsewhere. However, this doesn't matter. Theft is theft wherever it occurs, or so the complaint runs. The fact that nothing "real" exists doesn't change the basic principle. Both Linden Labs and Paypal were subpoenaed by Eros in order to locate the real (first world) person behind Volkov Catteneo and both have complied. According to various online posts, Eros then sought further subpoenas, which were granted against ISPs AT&T and Charter Communications with a view to ascertaining who might be at the IP addresses which Eros obtained from Linden Labs and PayPal.

The case is presently before the Florida courts and no doubt we will hear more on this subject. At its base, the case is a simple copyright / trademark / passing off issue. However, here the case may, curiously, be easier to establish than it would have been in the real world. Due to IP Addresses and user names, it should be possible to track the infringer and all his/her customers. However, the salient point is that even in a virtual world, there are real laws and real penalties.

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