



# LEGAL IT TODAY

COMMENTARY, STRATEGY AND MARKET INTELLIGENCE FOR THE GLOBAL LEGAL TECHNOLOGY COMMUNITY

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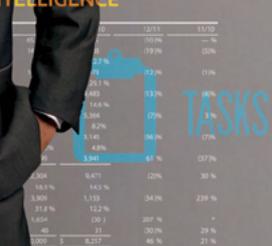
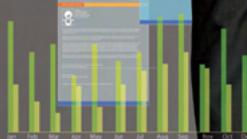
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## CONTENTS

- 5 From the editor
- 6 A seamless transition
- 10 Email is now much more than just a messenger
- 14 Let's make excellence a habit
- 16 Legal e-billing: what's in it for you?
- 20 A constellation of disruption
- 22 A misleading and unhelpful endorsement
- 26 The good, the bad and the could do better
- 30 Will technology soon become the least important distinguishing factor for law firms?



30

### THE VERDICT



## LEGAL IT TODAY

### Legal IT Today is published by:

Asfour in cooperation with Legal IT Professionals

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**ISSN:** 2214-2355

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# From the editor

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Welcome to Issue 9 of Legal IT Today! For this first issue of 2015, we are focusing on how IT can help law firms manage their communications, both internal and external.

I should probably start by saying hello. I'm Jonathan Watson, the new editor, and I've been writing about law, business and technology for about 15 years now. I'm excited to be embarking on this new assignment, as it combines all three of those topics, and I'm looking forward to finding out more from all of you about your legal IT experiences.

I hope I can continue the excellent work done by Joanna Goodman in the last two years and maintain the lively, informative perspective on the profession that [Legal IT Today](#) is known for.

Now, if you are anything like me, your email is a bit of a mess. Most messages are filed where they should be and easy to find, but many are not. If I want to track down information from an email, I often have to rack my brains to remember who sent it, type their name into the search field and hope for the best.

For law firms, this is where the CTO of NetDocuments Alvin Tedjamulia comes in. The company he co-founded in 1999 has just acquired Decisiv Email from Recomind and is hoping to turn it into the tool that will help lawyers keep all their messages organised. He spoke to us for this issue's vendor profile and had a great deal to tell us about mobility and security.

Email is also the focus of the article contributed by Brian Podolsky, practice manager in the New York office of Kraft Kennedy. He assesses how its importance has grown over the years and examines the tools companies can use to manage it. He makes the point that emails are no longer seen as transmitters of documents, but as documents in their own right. One might almost be tempted to say, in true Marshall McLuhan style, that the medium has become the message!

One interesting trend is how clients increasingly seem to be driving IT security at law firms. Matt Torrens, director of the UK's Sprout IT, mentions this in his assessment of why legal IT lags behind the financial services and healthcare sectors. He argues that clients are taking matters into their own hands to fill the gap left by regulators. Alvin Tedjamulia, who said that NetDocuments has to help its customers deal with between one and three client security audits every week, has also noticed this trend.

For some people, getting paid is their favourite part of the job. Personally, I used to enjoy getting a cheque in the post and then walking to the bank to pay it in – it felt like I was getting a tangible reward for my labours. Those days are well and truly over now, and I am always paid electronically. Similarly,

more and more clients are approaching their law firms about being billed electronically. Bryan King, who recently advised the ACL Jackson working groups in the UK on how the standards and technology used in commercial legal e-billing could be introduced into civil litigation costs management and billing, provides an update on the latest developments.

Perhaps even more fundamental to law firms is the degree to which they are choosing to change their underlying structure. Networks, virtual firms and vereins are now all important parts of the legal vocabulary and Chris Bull, executive director at consultancy Kingsmead Square, has provided us with a handy 10-point guide to this remarkable transformation.

We also bring you the reaction of the Legal Software Suppliers Association to the Law Society of England and Wales's rather odd decision to provide an official endorsement for one particular kind of practice management software. One can only hope that this does not lead to any law firms ending up with an IT system that is not right for them. There are already enough disaster stories out there, and adding to the collection would cause even more damage to the reputation of the IT profession.

Have you ever been to a conference and struck up an awkward conversation with someone in charge of a vendor booth? I know I have, and like Jason Plant of DLA Piper, I find it a rather strange way of learning about what is happening in an industry. If he had his way, such embarrassing encounters would be a thing of the past. In this issue, he gives us an overview of some of the events he has attended over the last 20 years or so.

Finally, in this issue we are proud to introduce a new regular feature for [Legal IT Today](#) called 'The Verdict'. In this section, four seasoned professionals will be giving us their take on current hot topics. The first question we asked was this: will technology soon become the least important distinguishing factor for law firms? Turn to page 30 for the answers.

I hope you find [Legal IT Today](#) a useful and entertaining read. Please do get in touch with feedback and suggestions for topics, features, and images – I would be pleased to hear from you!

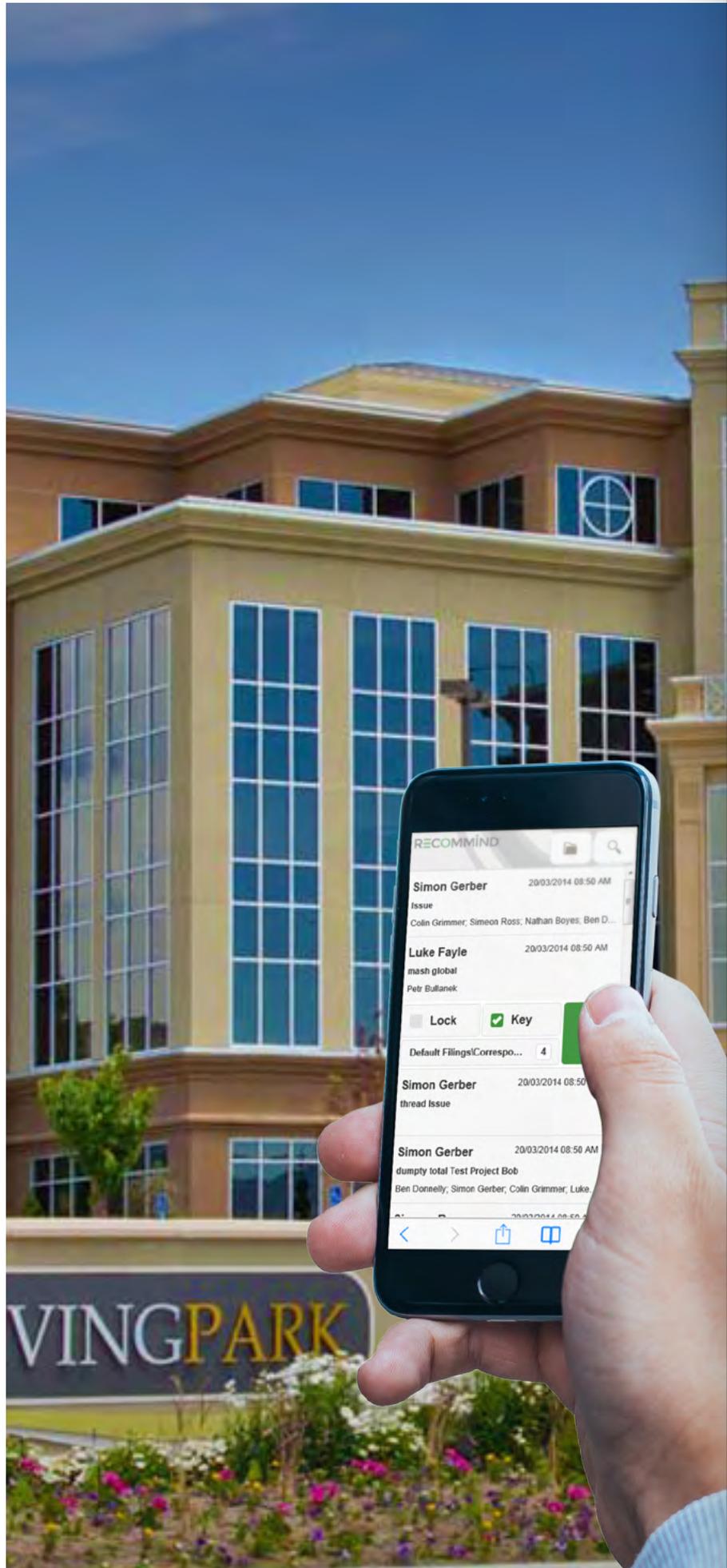
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INTERVIEW

# A seamless transition

JONATHAN WATSON

The last few months have been busy ones for cloud-based document and email management service provider NetDocuments. At the end of 2014, it closed a deal to acquire Decisiv Email from Recommind, and in early 2015, the company said it would respond to its growing popularity in Australia by investing in data centres, offices, and a supporting team in Sydney. *Legal IT Today* editor Jonathan Watson spoke to the company's CTO Alvin Tedjamulia about the plans for this year and beyond.





## **H**ow have law firms' attitudes to the cloud evolved since NetDocuments was founded in 1999?

Initially the appeal of the cloud was based on efficiency, but law firms are now starting to understand it is the only technology delivery model that is viable for the future. Vendors who do not have true cloud technology will be much less innovative and competitive compared to those who are in the cloud.

### **Is this translating into cloud adoption?**

The CIO of Pillsbury, the New York-based firm that has just signed a deal to use NetDocuments for document and email management, told us that the cloud was the only possible option. And in a survey of Am Law 200 firms published in *The American Lawyer* in 2014, 19% said they were using a cloud-based document management system compared to just 5% the previous year.

This is partly because worries about security in the cloud are subsiding and partly because the real innovation in law-related applications these days is coming not from long-established vendors offering on-premises software, but from the cloud providers creating modern, intuitive solutions.

### **But security is still a major concern.**

55% of those who responded to that same survey said security was their biggest technology challenge. Law firms are also more concerned about security than they were two years ago, because their clients are demanding regular security audits. I was with a 1,200-user law firm yesterday that recently went through 14 major security audits with its clients, and at NetDocuments, we get one to three a week.

One huge realisation for law firms is that with a very well built cloud model, security is actually much better than they can afford in-house. Compliance and security, far from driving people away from the cloud, are moving them into it because the defences, encryption technologies and everything else are far superior to anything that could exist on-premise or hosted.

### **What is the thinking behind the Decisiv Email acquisition?**

There have been various attempts at



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*'Cloud is not just about efficiency; it's the only viable model for the future'*

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email management systems, and they have done a job up to a point. However, they have not captured the imagination and passion of the people who use them. People don't want to use them; they just use them because they have to.

Decisiv Email, now rebranded as NetDocuments Email, is different. People who use it realise its power and don't want to give it up; it's created a loyal following of customers. This is mainly because it handles the task of predictive filing so well. You just read the email and it shows you the top two or three predictive workspaces or folders it should belong to and the percentage of relevancy based on the content, and you just have to confirm and click 'OK'.

One of its other advantages is that the full intelligence of the filing algorithm is presented to all members of the firm, regardless of how much email filing they do themselves. This means that the activity of the 'faithful filers' can benefit everyone, even the 'occasional filers'. ▶



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*‘We need to offer a system that people will use because they want to, not because they have to’*

**But I understand that not everyone has always been happy with it?**

It used to have two key problems, the first of which was that it was seen as just yet another repository for emails that users had to get the hang of on top of everything else. The other thing is that it is a sophisticated three-tier architecture with a complex back end that requires database servers, storage servers and search servers, all of which takes a great deal of energy to implement and manage in the long term.

Our aim is to continue with the phenomenal predictive filing function, including on mobile devices, to help create a single repository for

comprehensive email management combined with the enterprise document management system. Our goal is to eliminate the complexity that comes with the on-premises system, implementation and hardware babysitting, by moving key components into our cloud-based infrastructure.

**How is the growth of workforce mobility affecting the development of NetDocuments Email?**

Mobility is the major driving force for what we are doing with NetDocuments Email. We have almost reached the point where people are processing more email on the road than at their desks. If you read an email on a mobile device, you can't wait until you get home or to the office before filing it in the document management system – you have to file it on first sight. That is what we are pushing now with the release of NetDocuments Email; just a swipe on the mobile device when you are reading an email and it will activate the predictive filing function.

**What aspects of security make the company stand out from its competitors?**

If you look at the legal industry in general, you can probably count on one hand the number of document management systems that are actually encrypting their data, which is appalling to me. If banks can be hacked, law

firms can be hacked, and if defence intelligence agencies can have insider breaches, so can law firms—and of course it's already happened.

We are not only strengthening perimeter defences to the utmost level, but are also continuing best practice security controls. Firstly, all objects – documents, emails and so on – are encrypted at the software layer. So they are encrypted when they are transmitted to storage, in the network traffic and when they hit the storage facility, without using any hardware-based encryption.

Secondly, we are deploying a unique AES 256 encryption key per document. If a key is compromised, only one document is affected – unlike when there is only one encryption key for the whole service, which means that if that key is compromised, so is the whole service. Our document count is currently about 1.7 billion and is growing by 50–60% a year; there's a unique key for every single one.

Our object encryption keys are themselves encrypted by two other keys. The first is a master encryption key that is rotated every six months. The second is a workspace matter encryption key that is a unique key for that particular matter so it will encrypt all the object encryption keys for that matter. Both of them are stored in a cryptographic key management vault.

**What is the one key challenge that law firms are facing?**

The attraction of the cloud is simply irresistible. People figure out by themselves how to use consumer services like Dropbox and others that exacerbate data leakage. Leakage and unmanaged data breaks down the information governance at a firm and opens it up to liability and real potential damage. The challenge and opportunity that NetDocuments has focused on for the last decade has been to address this by developing the most modern, intuitive, and secure document and email management system possible for today's modern practice. It's our passion and expertise and we're pleased to be partnered with the thousands of firms in our growing and global customer community. ■

# Email is now **much more** than just a messenger

BY BRIAN PODOLSKY



Brian Podolsky of Kraft Kennedy outlines the tools that can help law firms manage email and examines how they are maturing.

Email has transitioned from a document transport to a DocType and is now one of the most important aspects of the matter case file. How do firms manage this? What tools are available and how have they been maturing?

Ever since taking off in the 1990s, email's importance has grown exponentially. Initially just a means of personal communication for most people, it soon became an important way to communicate and share information between businesses.

For a long time, documents and files were shared via email with the email message serving as an electronic cover letter with a document enclosure attached. Email was just the mode

of transportation for what was really important. It was the cargo ship delivering the payload.

However, in the past several years, that role has changed substantially. Email is not just a cargo ship anymore. The payload is now the email itself. It must be saved and organized into a repository that can be easily searched. It needs to have records and retention policies applied, as shredder-bound paper is now the ephemera that email used to be.

## **Aligning expectations**

Perhaps the most important task a firm must perform when it begins to tackle email management is planning how to strategically shape a culture about how much email should be saved into the document management system (DMS). Firm communications should be clear that the email management initiative is NOT to be a replacement for any existing email archive solution such as Symantec Enterprise Vault, Enterprise Archive Solution or Micro.

To reiterate, the DMS should not just be a dumping ground for all email older than 30 days. Care should be taken to educate the user community that relevant emails pertaining to casework are the kinds of communication that should be saved into the DMS, as attorneys fulfill their responsibility to maintain an accurate and complete client file. Since this will result in more content being saved into server infrastructure, preparations should be made to ensure that various back-end storage and indexing architectures can handle the increased amount of data.

#### **The tools to make it happen**

As the prominence of email increased, legal technology vendors started to take notice and introduce several competing products. Leading the way was HP/

Autonomy, who introduced enhanced and automated email management, starting with their WorkSite 8.5 platform in 2009.

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*Email is not just  
a cargo ship  
anymore; the  
payload is now  
the email itself*

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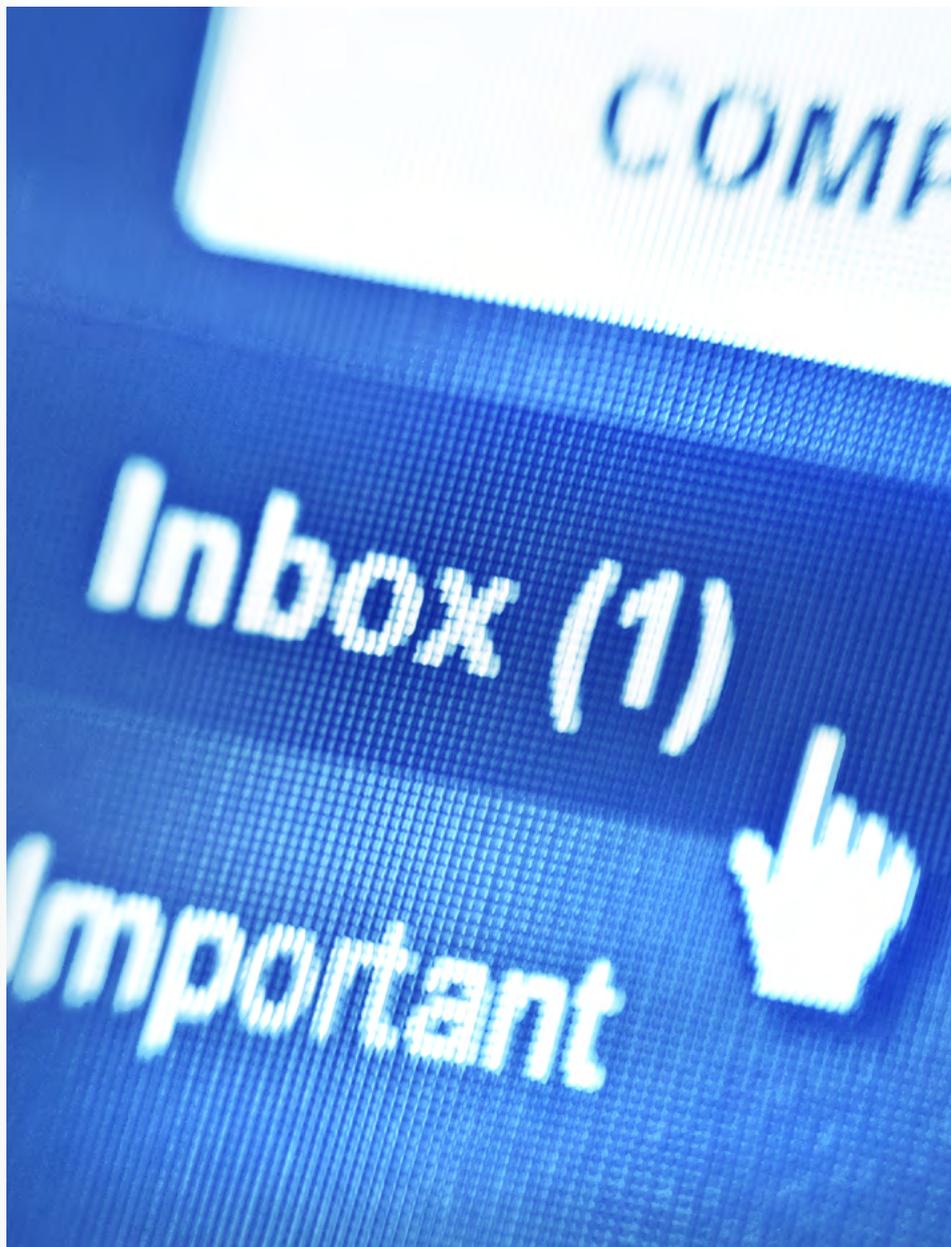
With the new WorkSite Communications Server for Exchange (WCSE), emails could be saved in bulk using server-side processing, or via Outlook Inbox subfolders that link to specific matters in the WorkSite system. Predictive filing was also introduced in an attempt to ease the filing burden on the user. Anyone who introduced this in 2009 knows that it had its share of issues with the initial release, but these were ironed out over the next few updates.

More recently, HP/Autonomy re-architected how the WCSE works, and this has caused more headaches for customers – including filing errors and the lack of a management console. To help alleviate some of the problems that have plagued WorkSite customers over the years, third-party vendors have stepped in. DocAuto, for example, offers the OutiM Server and the Exchange Importer Module to offer server-side email filing in lieu of the native WorkSite functionality. It is designed to be easier for the end-user, and to make it easier for IT staff to manage and monitor the processing of emails into the WorkSite system.

Prosperoware offers Milan Email Queue Management, which enhances the native WorkSite functionality by providing a graphical interface for IT staff to monitor accurately and troubleshoot any filing issues.

For firms that have the OpenText eDOCS suite, there is the Email Filing eDOCS Edition. This is actually developed by Traen, a third-party company, but is branded and sold under the eDOCS product umbrella. It has many of the same features of the WorkSite email filing system: predictive filing, server-side processing and the ability to link Inbox subfolders with particular clients and matters. This is the only email management option for those firms who own eDOCS DM and are looking to store pertinent emails easily in the eDOCS system.

For firms using the Worldox document management system, the latest versions of that product include some native email management, allowing users to drag and drop emails into special folders that are linked to Worldox profiles. Although it works very well, these folders cannot be created from within Outlook. Instead, ►



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they are driven by email quick profiles that need to be created within the full Worldox client interface.

Another feature lacking is the ability to deploy these automatically throughout the firm, or in any automated fashion. If the users are trained properly, the onus is on them to create these email quick profiles, which display as Worldox folders in Outlook.

Changing course from modules that plug email management into DMS solutions, Decisiv Email has been another option for firms looking to manage their email.

Decisiv thought about email management in a slightly different way – separating it from traditional document management. Decisiv came from an eDiscovery background and has its own repository and its own processes for predictive filing and searching for filed emails.

Originally developed by Recommend, Decisiv Email was recently acquired by cloud DMS pioneer NetDocuments and the product will be known as NetDocuments Email in future releases. Many customers still own the current version of Decisiv, and that will continue to be supported by NetDocuments.

However, new customers will need to wait for the next build of the tool, due out in July 2015. This will be very similar to the previous build, with predictive filing and storage services provided by on-premise servers. However, the product will include an optional connector to send the filed email into the appropriate workspace within the NetDocuments cloud-based DM system.

Over the next couple of years, NetDocuments plans to migrate all on-premise services to their cloud – reducing the on-premise footprint for their customers. But as far as I can tell, NetDocuments Email will remain a separate product from NetDocuments DM, allowing companies to use the email management solution without being tied to a particular DMS vendor.

#### **What does it all mean?**

Over the past decade, both culture and the market have dictated a more prominent role for email in our daily lives at home and at work. As businesses have demanded easier ways to save important email, legal technology vendors have answered with modules and tools to provide these services. For the most part, options are limited to what your DMS solution provider can offer.

However, NetDocuments Email enables users to decouple email management from the overall DMS. These solutions allow email content to be securely saved and searchable, providing a straightforward method of preserving email data, while lightening the load (a bit) on Microsoft Exchange. It is my expectation that all of these tools will continue to evolve to better predict where email should be filed, and to further streamline the process of filing.

*Brian Podolsky is a practice manager in the New York office of Kraft Kennedy. He leads the firm's Enterprise Content Management (ECM) Practice Group, where he drives research on the latest technologies and provides guidance and best practice standards to clients implementing ECM solutions. He has extensive experience implementing and supporting HPI/Autonomy iManage, OpenText eDOCS, and Worldox document management systems, as well as third party integrated add-ons to these systems. ■*



# Let's make **excellence** a habit

BY MATT TORRENS



Matt Torrens, director of Sprout IT, explains why the legal sector is way behind financial services and healthcare in terms of IT and how this can be changed.

**T**he UK fares well compared to its European neighbours when it comes to data security. According to a recent survey published in *ComputerWeekly*, we have the highest percentage of encrypted company laptops (62%, compared with 36% in France and 56% in Germany) and the highest percentage of encrypted company mobiles (41%, compared with 21% in France and 32% in Germany).

But do those figures carry over to the legal sector? I doubt it. Very much. Data security in legal IT seems to be the poor relation to the financial services and healthcare sectors. Why is this the case?

## **Regulatory bodies**

When it comes to data security, the UK's solicitors and barristers answer to a number of organisations. The Information Commissioner's Office,

Solicitors Regulation Authority, Bar Council and Law Society all act as regulators, advisors and promoters of professional excellence.

However, the claims these bodies make, such as "we provide authoritative guidance", "promoting the highest professional standards" and "committed to excellence" are somewhat undermined by some of the advice they publish. For securely disposing of a hard drive, one of them suggests "removing the hard drive from the computer and hitting it repeatedly with a heavy hammer", while according to another, "facial recognition software is an acceptable alternative to passwords".

Such poor advice simply does not exist for financial services and healthcare providers.

The Law Society's published guide for information security was last updated on 11 October 2011, almost three and a half years ago, while the Bar Council's review in 2014 can only have been completed by non-technical authors who preferred the term "should" over "must". By contrast, in the financial sector, the Financial Conduct Authority says its role is to "enforce" rather than "guide" and "make it clear that there are real and meaningful consequences for firms or individuals that don't play by the rules".

In the legal sector, the IT element of the resurgent Bar Standards Board's audit process is well intentioned but poorly designed. In reality, major clients such as banks and insurance companies interrogate chambers about their data security arrangements more frequently than any regulatory bodies. It's almost

as if the clients feel they have to take matters into their own hands.

### Working practice

In general terms, data security practices are better thought out, implemented and enforced in solicitor firms than in chambers. This is partly because 80% of barristers are self-employed, so they started individually purchasing and managing their own PCs and other devices long before anyone coined the term "BYOD". Despite sharing common computing resources, barristers routinely flout best practice and even written policies, citing self-employment and full autonomy in their defence.

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*'Too often, the legal sector seeks familiarity and the path of least resistance, safe in the knowledge that its toothless governing bodies won't bite.'*

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A solicitor firm, at least, often allows for full control of the desktop environment, giving the IT department more autonomy. USB devices, downloads, installation rights, browsing restrictions and TLS email encryption are all commonplace. However, most firms still have at least one rogue fee earner or partner who is happy to circumnavigate the rules because they always have done, and resent any restrictions. They don't appreciate that data security, and IT security in general, does not spring from a geeky desire to impose unduly prescriptive rules but from the duty to protect precious and sensitive client data.

### Individual attitudes

Integral to the success of any system



is the attitude and behaviour of the individuals within it. Why is it that when a clerk or barrister receives a secure communication or invitation to share via a secure tool, they so often look bemused and immediately begin to search for an 'easier' way? Usually, they are seeking familiarity and the path of least resistance, safe in the knowledge that their toothless governing bodies won't bite.

Two thirds of the respondents to the *ComputerWeekly* survey said they did not always check whether specific data was safe to share, while little more than two thirds said that to share data easily, they were willing to use personal cloud services to circumvent company IT restrictions and policies.

At this point, I expect most of those who use Dropbox, OneDrive, iCloud and similar services will shrug their shoulders and admit they don't know where the replicated content resides. Such is the simplicity of cloud services: it matters little, until, of course, everything goes horribly wrong.

### Why do we need to improve?

I see this as a silly question but it is one I hear regularly. Here is a brief list of answers that really should not require (though it too often does) long-winded explanation or justification:

- To respect our client data and legal obligations
- To maintain and enhance the global reputation of the UK legal services sector
- Only the most tech savvy law firms will survive
- It's inconceivable that the delivery of legal services can remain exempt from IT and data security
- Legal is widely considered as the least defended path to the most sensitive information

### The future

Regulatory bodies must learn to enforce best practice and punish those who wilfully ignore the law. They do not need to become high-tech, penetration-testing, firewall-building centres of excellence; they simply need to tap into existing best practice frameworks such as ISO 27001, the government's new "Cyber Essentials" scheme or the Axelos drive towards global best practice.

IT services are changing all the time. Research firm Gartner, for example, has reported that although just 10% of legal services are in the cloud today, 90% will be cloud-based by 2018. And as the EU plans to introduce increased fines of up to 5% of global turnover for data breaches as part of the General Data Protection Regulation, the time to start getting this right is now.

Will best practice and a change in attitude prevent future data breaches? Of course not. No one is completely cyber-proof and people make mistakes. But we all have a duty, surely, to make the very best attempts to safeguard data for the good of our clients, our businesses and our reputations.

According to Aristotle, we are what we repeatedly do. Excellence is not an act, but a habit. Let's make good data security practice in law firms a habit; standard practice that is normal and practicable and that clearly demonstrates a drive towards excellence.

*Matt Torrens is a legal IT expert and entrepreneur who has been providing secure, innovative and outsourced IT services since 1999. He co-owns Sprout IT, a specialist in the legal industry and now the leading supplier of IT strategy and service to barristers' chambers. ■*



# Legal e-billing: what's in it for you?

BY BRYAN KING

E-billing Consultant Bryan King provides an update on the latest developments in his field of expertise.



There is no doubt that electronic invoicing (e-billing) is one of the fastest growing trends in the client / law firm commercial relationship. It is well established in the US, and an increasing number of firms in Europe have now been approached by clients (or one of the e-billing intermediaries) about delivering their legal bills electronically.

Before looking at the latest trends, we need to distinguish between “full” e-billing as against the uploading of

a copy of a paper bill or the keying of invoice details to a client or third party web site. Full e-billing involves the production of an electronic file, usually in one of the LEDES (Legal Electronic Data Exchange Standards) formats. This will contain not just the invoice header, matter information and bill totals but a detailed breakdown of timelines and expenses, coded using the UTBMS (Uniform Task Based Management System) code sets for tasks, activities and expenses.

The e-bill passes various levels of validation before being uploaded to the client's systems where it is finally authorised and paid. The client's legal team is then able to use specialist software to analyse the billing data and compare like-with-like information across all their external advisers submitting e-bills.

## Key drivers

What then is the driver for legal e-billing and what returns do corporate legal

departments expect e-billing to deliver? Some of the benefits often cited include the following:

- Delivers clarity, consistency and transparency for in-house counsel in the billing process from their external advisers. E-billing is the only way to deliver this.
- Enforces compliance with a client's billing rules and agreed fee rates, ensures that bills are mathematically correct, and ensures that only those disbursements allowed are billed.
- Enables in-house counsel to analyse billing data in detail, improves management information and assists in the legal budget process.
- Enables counsel to know exactly what their external firms are working on and that the appropriate firms are being instructed for the most suitable work.

- Reduces the paper trail of bills within a client's organisation and will improve the processes for invoice approval and payment.

While cost reduction may be the primary driver in the US, UK-based organisations have realised that other benefits can accrue from e-billing. A spokesman for Barclays, which recently completed one of the most high profile e-billing projects, said it would make the company's in-house lawyers think more commercially.

"Are we putting the right resources on matters? What's the selection process? We would hope over time that it has a positive behavioural change," he said. Barclays maintains that e-billing is not just about cutting costs and fees, but part of a much wider strategic relationship with their external firms.

#### **What's in it for the law firm?**

While in-house legal departments can benefit from a move to e-billing, the question remains: What's in it for the law firm?

Apart from the obvious benefit of getting paid more quickly, e-billing does bring more clarity to the billing relationship. For example, the fact that the billing rules can be enforced before the bill is finalised brings a degree of certainty to the law firm that the client should not reject any bill they produce.

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*'Barclays said it hoped e-billing would make its in-house lawyers think more commercially.'*

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Less obviously, e-billing can facilitate a fresh dialogue between law firm and client about the pricing of legal work and the use of more flexible cost or fee models, such as where part of a deal is on time-based billing and part is fixed fee. This type of costing can only really be achieved if both parties are comfortable with what work is being done and at which stage of a transaction. E-billing is the only way that this level of work breakdown can be measured and made visible to both parties.

There are also internal benefits for law firms. Finance managers should not underestimate the use they will be able to make of the additional information included to meet the needs of e-billing. Detailed information about the law firm's billing practices will be collected in order to produce e-bills and this data can then be analysed internally by the firm in order to improve cost estimates. And as time narratives, correct coding and compliance with a client's billing rules all have to be accurate for e-billing, this will enforce better billing practices in the front office.

While e-billing has brought many successes, there are still outstanding issues that UK law firms are working on. These include the potential complexity ►





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of supporting multiple LEDES formats and e-billing systems; the ongoing maintenance of rates and timekeepers; and the realisation that not all e-billing functions can be “outsourced” or “near-shored” without careful planning and training.

While e-billing has delivered some benefits to clients in understanding and controlling their legal spend, we are now seeing new solutions for clients and law firms enabling them to share budget and legal cost information while the work is ongoing – i.e. in the pre-billing phases of each matter. There are players coming into the market who can offer much more visible collaboration in terms of shared financial and operational data in a secure environment.

This can be in real time, or at more extended time periods, depending on the client requirements. We call this approach “beyond e-billing” and know that some major clients are now asking their external law firms to provide this

level of costs, work in process, staffing resources and expenses detail in a more timely fashion.

These solutions recognise the issues associated with conventional e-billing, not least the fact that the bill can still be disputed and rejected after the event and may not fully comply with outside counsel guidelines. A collaborative system enables both parties to see how the matter costs and expenses have conformed to the billing guidelines before the bill is generated. It also allows for more legal project management in terms of resource allocation, progress against plan and budget spend.

### **E-billing could be used in civil litigation**

One recent development, where legal e-billing will have an impact in the UK, concerns civil litigation, particularly cost budgeting and the preparation of bills of costs. Up until now, the billing of non-commercial legal work, where legal costs are assessed and awarded by the

courts, has remained a heavily manual and expensive process and has seen little benefit from advances in technology.

Much has been written about Lord Justice Jackson’s 2009 review of civil litigation and one area of the review that has been widely accepted and is seen as a “non-political” proposal is in the future budgeting and billing of legal costs. The Association of Cost Lawyers’ Jackson working group followed up the 2009 review and *inter alia* looked at how e-billing standards and technology could benefit the civil justice process.

The group’s “Modernising Bills of Costs” report, published in October 2011, made a series of recommendations. One of these was to introduce some aspects of the successful commercial e-billing processes into civil litigation costs management and the release of the “J Codes” (a set of UTBMS codes for civil litigation) will mean that e-billing standards will have to be adopted by many more firms than at present. ■



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# A constellation of disruption

BY CHRIS BULL



Chris Bull, executive director at consultancy Kingsmead Square, outlines the 10 key trends that are transforming law firm business models in the digital age

**L**aw firm. For decades, most of us would have been able to summon up the same clear image of what was meant by those two words. Of course, we would have acknowledged that there was a spectrum of shape and size – one that stretched wider as we moved into the 21st century – and would visualise some differences between a “high street” and a “commercial” firm.

Even so, the common components of that picture of a “law firm” would outweigh the variations. We would inevitably picture a partnership, wholly owned and ultimately managed by qualified lawyers; predominantly male. Profit would be measured by counting how much remuneration a partner-level lawyer took home each year, typically distributed in full within a year. It could be much faster in some firms, some of whom, not coincidentally, are no longer with us.

Investment decisions would be made by the partner group as a whole – inevitably slowly and often with reluctance if short-term drawings were likely to be at risk.

Clients would be advised face to face, supplemented by some phone and email contact, but without the use of technology as a major part of the process of winning or delivering the work (not that the word “process” would be used, of course, for fear of upsetting the partners). Widely accepted business phrases such as “operations”, “margin”, “pricing”, “sales” or “governance” had no place in the law firm lexicon either.

The idea that this prevailing model was archaic and outmoded is hardly new. Nevertheless, it has survived, and indeed prospered, into the 21st century. Lawyers are smart, in the main highly professional, and still very much in demand; as business and government becomes more complex, global and high stakes “bet the company” legal issues are actually increasing.

In my view there are ten trends transforming that single, near-universal standard law firm model into a veritable constellation of different structural options. This is not a list of mutually exclusive strategic options for legal service firms; there are businesses in the market today whose model leverages a number of these trends.

## External investment

In England and Wales, the advent of Alternative Business Structures (ABS) in 2011 opened the legal market to a new form of competition. An ABS is simply a law firm subject to very similar regulation as a traditional solicitors firm, but not 100%-owned by qualified solicitors.

This enables not only external investment in law firms (including private equity) but also the addition of a legal arm to an established business in another sector (e.g. BT in telecoms, KPMG in accounting). It also facilitates equity ownership by other professionals – enabling true multi-disciplinary practices – and senior non-solicitor managers.

By the beginning of 2015, over 400 ABS licences had been granted. Using this legislation and a similar opening up of the Australian legal market, Slater & Gordon has become the first publicly-quoted global ABS. Top 20 UK law firm Irwin Mitchell also operates multiple ABSs.

### **Incorporation**

Quite apart from the high percentage of new ABSs which are structured as limited companies, the last few years have seen a steady increase in the incorporation of traditional wholly solicitor-owned law firms. Various reasons, but most notably limitation of liability, funding and tax benefits (although these were restricted in late 2014), have driven this trend. However, some firms have simply recognised that the partnership model does not suit their business. Limited company firms, including Optima, Parabis and Lyons Davidson are among the largest 200 UK firms. Slater & Gordon is a PLC, while Irwin Mitchell has declared its intention to become one.

### **Group structures**

The proliferation of more complex organisational architecture in the last five years among larger firms in particular has been driven by international expansion (where a single partnership is often impossible to achieve), the addition of corporate or joint venture structures into the business, and tax planning. In this scenario, the traditional partnership or LLP is typically recast as the ultimate holding entity.

### **Consolidators**

Echoing a trend in the accounting market from the last decade, the consumer and SME legal market in particular has been disrupted by large-scale consolidation. Personal injury work has become heavily concentrated, with the expanding consolidator sometimes acquiring smaller firms, sometimes just their book of business. Consolidators in this market range from the FTSE-quoted Quindell Group to Parabis, Slater & Gordon, Freeth Cartwright and DWF. Globally, the likes of DLA Piper, Dentons and Norton Rose Fulbright have grown rapidly by multiple acquisitions.

### **Networks and membership groups**

Firms who are determined to remain independent but who feel outgunned in terms of marketing reach and infrastructure by the new mega-

firms have been attracted to a range of network organisations. In the UK, QualitySolicitors offered a new membership model but looser groupings such as LawNet in the UK and Lex Mundi internationally are prime examples of networks of independent firms.

### **Distributed or virtual firms**

The digital revolution has helped to create a legal workforce and service delivery model without the restrictions and investment demanded by fixed real estate or permanent employment models. In the US and now internationally Axiom championed a distributed legal model, while fast-

and Exigent, entered the legal market in the latter half of the last decade with plenty of fanfare. Although their impact has been less significant than many commentators predicted, they have established themselves as an alternative to conventional law firms for corporate clients, especially in areas such as document review and contract management.

### **Vereins**

The Swiss verein is an internationally recognised and tax efficient structure for organising multiple separate legal entities under a highly flexible umbrella. Usually trading under a single brand,

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*‘Even though the prevailing model was archaic and outmoded, it has survived, and indeed prospered, into the 21st century’*

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growing UK-based firms such as Keystone Law and Gunner Cooke represent a distributed workforce of home-based, often highly experienced lawyers. The high percentage of women operating at the most senior tier in these firms is also exposing the unconvincing diversity performance of conventional law firms.

### **Flexible and contract lawyer resources**

What the US market knows as contract attorney services are not exactly new, especially for areas like litigation support and eDiscovery. However, the trail blazed by UK lawyers Berwin Leighton Paisner in creating and spinning out Lawyers on Demand has stimulated a sudden growth in adjuncts to major law firms (including A&O’s Peerpoint and Eversheds’ Agile) that offer clients a range of agile lawyer resourcing options. In terms of non-law firm models, US-headquartered Axiom overlaps with this territory.

### **Legal process outsourcing (LPOs)**

LPOs, with a high proportion of their workforce offshore, such as Integreon, CPA Global, UnitedLex

vereins have become the standard model for global mega-firm combinations, initially in the accounting market and now in legal.

### **Consumer & SME big brand legal services**

TV and radio-advertised claims management companies and brands (the likes of National Accident Helpline and InjuryLawyers4U) are now well recognised in the UK. QualitySolicitors introduced a full service law firm branded “product” into the consumer legal market, with the delivery of advice by member law firms separated from the marketing and sales engine.

The UK market is now bracing itself for the advent of RocketLawyer, backed by Google Ventures, and the USA’s most recognisable legal brand LegalZoom as the next wave of “big brand” new entrants. Meanwhile, Slater & Gordon and Irwin Mitchell (that pair again) are attempting to create household-name recognition through consolidation of existing law firms. ■



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# A **misleading** and unhelpful endorsement

JONATHAN WATSON

**T**he Law Society, the body that represents solicitors in England and Wales, ruffled the feathers of quite a few legal IT professionals in early 2014 when it launched a tendering process to endorse a preferred supplier of case and practice management software.

The Legal Software Suppliers Association (LSSA), the UK industry body for legal systems developers and vendors, privately and then publicly registered its opposition to this. It sent the Law Society an open letter outlining the reasons why it believed the process was not in the best interests of the profession and stating that the majority of its members would not be taking part.

Later in the year, the LSSA carried out a survey in which 236 out of 237 senior

representatives of law firms said they were opposed to the Law Society's proposal. 'Unless I am convinced that the Law Society will endorse providers on the basis that a selection of products have been fairly tested and are the best for their membership, rather than being the best for providing income for the Law Society, I disagree that the Law Society should suggest a preferred legal software provider,' said one respondent.

Despite this, the Society announced in January this year that it was endorsing Eclipse's Proclaim Practice Management Software (PMS) solution. 'The endorsement reinforces Eclipse's position as the UK's leading legal software provider, with Proclaim being unique as the only Law Society

endorsed solution of its kind,' the company said in a statement.

The Law Society website now provides information about the software, including the claim that it is 'the solution of choice for law firms across the entire legal services spectrum'.

We asked LSSA chair Glyn Morris for his response to the announcement.

## **How much of an advantage does an endorsement like this confer in the legal IT market?**

Some buyers will take some notice but the majority won't. The greatest advantage for Eclipse will be that those looking for a new system will be more likely to consider whether their offering should be included in the systems ►



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evaluated. There will be few firms in the market who will base their buying decision on a Law Society endorsement without careful evaluation of the relative merits of other technical and commercial options for their particular set of needs.

**Have the Law Society provided the LSSA with any information about how its decision to endorse Eclipse was made?**

No. The LSSA made several attempts to engage with the Law Society to understand what they were trying to achieve and also to offer assistance to find a better way forward but this offer was never taken up.

Everyone in this market knows that one size does not fit all. It is misguided to suggest that the needs of a large international firm can be met using the same software as a sole practitioner and therefore the Law Society endorsement is not a measured view of the best solution available to any of their members, let alone a single 'best' for all of them. We have no details of either the selection criteria (whether clients were surveyed or how the product was assessed) or any commercial arrangements agreed for the endorsement process.

**Do any other well-known legal organisations have an endorsement scheme like this? If not, is this one likely to set a precedent?**

We are not aware of any direct parallel. Other representative bodies, like trade unions for example, negotiate attractive offers from trusted service providers – hire cars, for example. These are more normally for individuals rather than organisations and are offered as a commercially attractive package for comparison. It is not yet clear if the Law Society 'endorsement' follows this model or if, even in the absence of thorough evaluation of alternatives, the Law Society is suggesting to members that the chosen product is recommended for all.

**Is an endorsement like this helpful to Law Society members?**

It is the view of the LSSA that this endorsement is not helpful. It might mislead others into thinking that the Law Society has considered all competing systems and is recommending Eclipse as the best of all for their particular needs. That is manifestly not the case.

In the current competitive climate and with the increasing need for support with compliance, with market access, management information and efficiency, every legal organisation should consider their individual needs and how best to use IT investment, amongst other strategic considerations, to survive and prosper.

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*What the Law Society is saying, and the reasons for it, are as obscure to its members as they are to us*

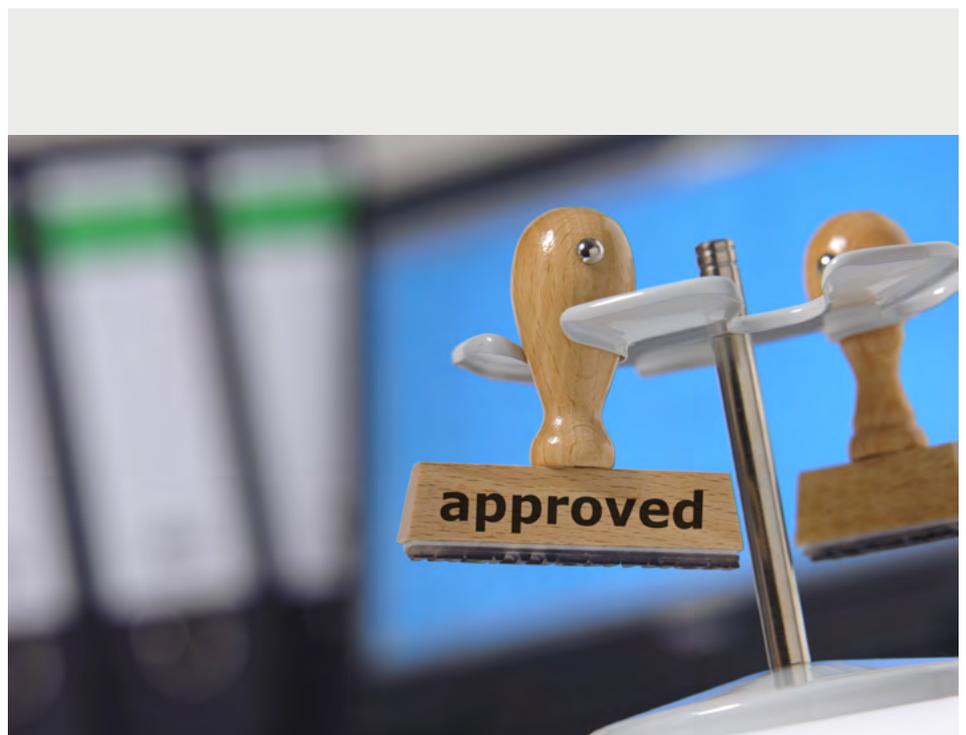
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**Would it be better for the Law Society to maintain a list of 'approved' suppliers who satisfy a minimum set of standards?**

That would be one better alternative, amongst others. The LSSA as an organisation has the ambition to help improve the capability of IT systems across the legal space, and to help buyers make good decisions. We firmly support the dynamics of a successful marketplace, with both new entrants and established systems being developed to suit client needs. We have a code of practice that ensures no artificial barriers to firms moving between suppliers.

We remain committed to encouraging firms to buy the best system for their needs. We publish advice widely, which encourages thoughts about current needs and future trends.

I am not convinced that this an appropriate area in which the Law Society should become involved. Is their 'endorsement' to be considered equivalent to a Practice Note, to be disregarded at a solicitor's peril, or are they now operating at a commercial level, advertising deals to their members? Surely somewhere in the grey area in between, but that is the problem – it is a grey area and what they are in fact saying, and the reasons for it, are as obscure to its members as they are to us. ■



# The good, the bad and the could do better

BY JASON PLANT

Jason Plant shares his memories of almost 20 years of legal IT conferences

The best conference I ever attended was probably the UK launch event for Microsoft Office 97. I think it was held at the QE2 conference centre in London. Microsoft was at its peak: Apple and Google were nowhere to be seen and Steve Jobs had yet to raise the bar for this kind of events. Since then, I have measured every legal IT conference I've been to against this benchmark. Some have come close, but most have come up short.

In their early days, legal IT conferences were poor. The first one I attended, held at the Barbican Exhibition Centre in London in 1998, was more of a trade show. I'm reliably informed that it was called The Solicitors' & Legal Office Exhibition. It was not particularly memorable. In fact the only reason I remember the year it took place is that I still have one of the caricatures (see above) that legal stationery providers Shaw's were churning out on their stand.



Other than this, my recollection is a little vague, but from what I remember it was just a hall full of vendors' stands. People would dip in and out, usually during a lunch hour, rather than spend a full day at the conference.

After this event, which was eventually acquired by the owners of LegalTech US, came the Legal IT Show, which ran for a number of years in Islington in North London. I also recall attending this when it tried some regional variations, with the nearest one to me taking place at

the Royal Armouries in Leeds. Again, all I remember is that it used the typical trade show format, with nothing more than vendor stands.

This was in the early days of the Internet, so getting product information face to face rather than online was still the norm. These early events weren't a patch on that Microsoft conference that set the benchmark. In fact, after a while I gave up on general legal IT events and it wasn't until 2010 that I attended another one.

### Interlude

Although generic legal IT events proved disappointing, the vendors picked up the baton, especially when iManage merged with Interwoven and we got the 'Gear Up' events in the mid 2000s. I attended a couple of these – one in Florida and one in London – and they were very good. There was a great mix of keynotes, product roadmaps and specialist breakout tracks. Because the vast majority of legal IT folks had come for a specific product, the networking was great too.

Unfortunately the Autonomy merger put paid to these events and the user group format (although it is useful) hasn't replaced them.

A couple of other vendors have crafted some unique events worth mentioning. BigHand, with its full day conferences in London and Manchester in the UK, has managed to match the structure of those Interwoven events with good keynotes, product roadmaps, good networking and good breakout sessions. Then there is Tikit with its Word Excellence Days. These are not product-based but are usually full of relevant customer-led talks or panels on a range of pertinent topics (not just Word and document production).

### Return to action

My return to general legal IT events in 2010 was a trip to the ILTA conference in Las Vegas. The ILTA (the International Legal Technology Association) event is something special. It has great keynotes, a huge range of smaller sessions on

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*'If there is one problem I find with all the events, it's the vendor hall. The vendor booth has to be the most awkward way to learn about new products'*

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every topic imaginable in the legal sector, great networking opportunities and a vendor hall that has pretty much every legal IT solution on offer.

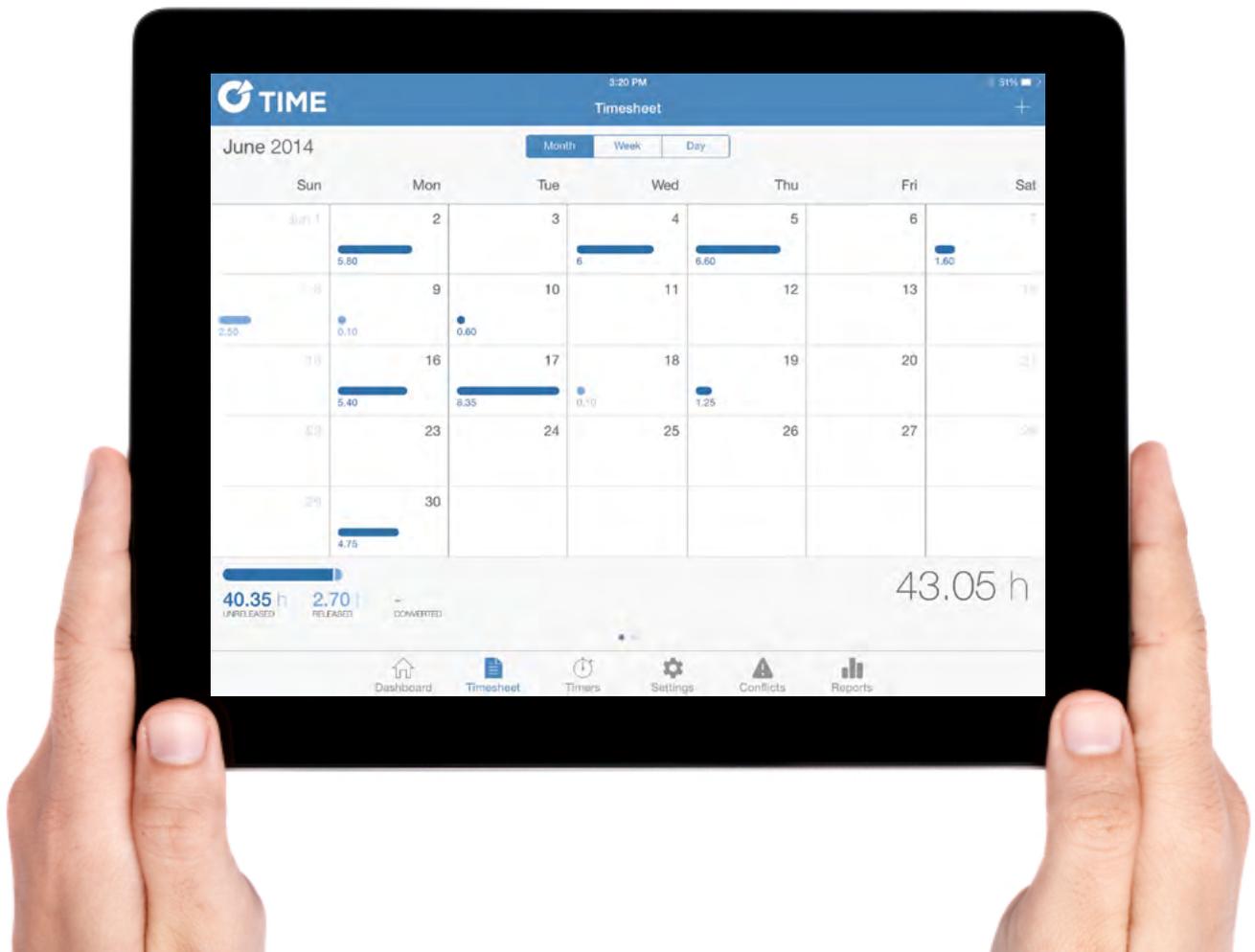
However, its vast size can also be a downside. It's difficult to catch everything you want to, and the session synopses can sometimes lead you to the wrong conclusions and into the wrong sessions. To get the most out of ILTA, you need to plan ahead, have multiple sessions for each time slot, and leave one for another if it becomes obvious in the first few minutes that the talk is not for you.

Plan which vendors you want to see, plan what you want to see when, and if possible, arrange some demos in advance. I attended a second ILTA conference in 2014 in Nashville and I wish I'd been more prepared. But if you're looking for an event that lives up to the benchmark set by the Office 97 launch, then ILTA in the US is it.

The other US show of note is the giant LegalTech event in New York. I haven't been myself and probably never will. Rightly or wrongly, I imagine that it resembles those legal IT shows in London years ago. ▶



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### Back across the pond

So what about the UK shows? Well a few years back the LawTech Futures show shook things up a bit, bringing some fantastic keynote speakers and matching them with a good vendor hall and interesting mix of breakout talks over three tracks. The format was very familiar to those who had experienced ILTA.

The momentum seems to have continued across UK legal and has led to a great line-up of three big events for 2015, each with a different flavour.

The British Legal Technology Forum took place in March. I wasn't able to attend, but the format looked similar to LawTech Futures – unsurprisingly, as they are both organised by NetLaw Media. This year's keynote was by futurist and theoretical physicist Dr Michio Kaku.

There were the familiar three stages and a vendor hall. It's a tried and tested formula that works well.

I would have been interested to see how the tracks went. All conferences in the last few years have tended to churn out the same old 'disruptive, cost cutting, law needs to change' agendas. There are some great case studies to be discussed on mobility, service centres, document automation and legal project management, but I haven't heard many at a conference yet.

In May we will have a newcomer to the scene in the shape of the Inside Legal IT event. This could be interesting; it's an attempt to forgo the keynotes and talks and focus on the vendor hall. It's sort of back to the beginning with a twist, the twist being to inject some fun in a bid to facilitate the networking and

discussion. I hope it works. If there is one problem I find with all the events, it's the vendor hall. The booth has to be the most awkward way to learn about new products. Maybe this conference can shake things up a bit.

Finally in November is the ILTA Insight event. I attended my first one of these last year and was pleasantly surprised. I had avoided them previously as I'd already 'driven the Golf' in the shape of the US ILTA show. Surely the London one-day version wouldn't live up to it? In fact, it was impressive. The format consisted of keynotes, talks and vendors – standard fare. But with the talks being run by ILTA firms, it seemed to be more relevant and have real world examples that I wanted to hear.

### How to improve

My main wish for conferences is that the organisers would use technology! In a world of live-streamed events, it's about time the organisers of all the legal IT shows started doing this. It's impossible for large numbers of legal IT staff from a single firm to attend these events, especially from firms in the north of the UK. It would not be cost effective. For a nominal fee, I'm sure the online audience would be much bigger, and with social media adding an extra boost, there is a massive opportunity for vendors to tap into a wider audience. That's my one wish.

I also have a question. Why, compared to the US conferences, do so few Europeans tweet at our conferences? With the discussion generated online from US events, you can almost hold a second conference online.

*Jason Plant, head of applications technology at DLA Piper, began his career as a developer working on case management software for personal injury claims. He then worked in project management for a number of years, delivering small and large-scale legal IT systems, before leading a team looking after the global digital dictation, knowledge and document management systems at DLA Piper. ■*



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# Will **technology** soon become the least important **distinguishing** factor for law firms?

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Technology is now so common that many see it almost as a utility, but can law firms still use it to stand out from the competition? We ask four experts in the know



THE VERDICT



**Gerard Neiditsch**

Chief Information Officer / Allens Linklaters (Australia)

Technology itself may have been unimportant for some time, insofar as it is available to everyone. However, the way technology is applied to the unique legal service brand value of a law firm will become a defining factor for law firms. Law firms – like many other professional services – need to find ways to apply technology with innovative and highly visible services if they are to stay relevant in their segment.

Today, most law firms – and many alternative legal service providers – lack distinctive features and trade either on cost or on historic brands. Both factors are eminently open to disruption and commoditisation. The creative and agile use of technology is one of the few levers law firms can use to distinguish themselves. I'm convinced we'll see more of this, particularly in deregulating markets such as Australia and the UK. ■



**Joachim Fleury**

Partner and Global Head of TMT / Clifford Chance

Technology will remain a distinguishing factor for law firms in both the market to gain and retain clients and the market to recruit and retain talent. Clients increasingly expect (essentially free) tools to get initial answers to legal questions, as well as state-of-the-art transaction support. Talent wants the devices, software and systems to be able to do its work anytime, anywhere – and people will actually move to another firm if they don't get that. ■

**Curt Meltzer**

Chief Information Officer  
Chadbourne & Parke (US)



Lack of technology may actually be the most important distinguishing factor for law firms. Most firms have similar capabilities, enabling them to check off RFP (Request for Proposal) requirements. Without certain items, clients may eliminate firms from

consideration. If technology does not perform properly, a firm will risk distinguishing itself ignominiously. For example, if a firm suffers a material security breach, which becomes public knowledge, the distinction can damage the firm's reputation.

IT people do not often get praise for doing a great job. Nobody gets a call for keeping email running well for years on end. If it should hiccup for five minutes, the feedback will be appropriately swift and strong. Law firms are in the business of delivering excellent legal service. Technology will always be there to support and enhance that service. ■

**Ben Weinberger**

Chief Strategy Officer / Phoenix Business Solutions (UK)

Technology might eventually help minimise the impact of bad lawyering through artificial intelligence such as IBM's Watson, but no amount of technology will overcome bad business decisions (which have caused the demise of several firms over the past few years) or poor customer service. Customer service will become the most important differentiator, and that requires appropriate technology.

Technology will be the differentiator for those firms who invest properly in it. Some firms will fail as a result of ignoring investment in favour of short-term profit, but their subsequent inability to compete on price will eventually kill them. It's impossible to ignore the increasing demand for alternative and fixed fees; firms must maximise efficiency to ensure profitability. Only an elite handful of firms will be able to continue charging what they want.

General Counsels demand value, and the vast majority of firms perform commodity work, whether they accept it or not. ■



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