



Building an automated practice: it's not so tough

by David Bilinsky

♪ *Whenever I want you all I have to do is
Dream ... Dream, Dream, Dream ...* ♪

Words and Music by Felice and Boudleaux Bryant,
recorded by The Everly Brothers

Technology offers lawyers choices, not answers. When updating the core systems in their law firms, lawyers need to know their own priorities in practice to select the right tools. This article is based on a paper presented by Dave Bilinsky at LegalTech Toronto in November, a paper available on the practice resources page of the Law Society website under “Services for Lawyers” at www.lawsociety.bc.ca.

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As a Practice Management Advisor, I frequently am asked “*What should I get to automate my practice?*” This question reflects a tacit belief that there is one “set” of products that, once installed, will transform the lawyer’s practice.

Some even imagine a Jetson-like world where tasks are performed by robots that understand spoken commands and work endlessly doing whatever needs to be done — almost by magic. In reality, high-tech tools *can* help create a better product, a faster product and a cheaper product — but rarely can they achieve all three at the same time.

For that reason, you must choose your reference points to use technology effectively and efficiently. Your strategic goals will focus on how to deliver a clearly and consistently superior product, meet client needs in a timely fashion and offer your services at a good price (in other words, how to work better, faster and cheaper). Once your priorities are clear, you can choose the appropriate set of tools that take you towards those goals.

No tool will do all things for all lawyers. Take speech recognition software (SR) for example. The commonly held belief is that, once SR comes into widespread use, the need for secretaries will diminish, overhead will drop (= “Cheaper”), the lawyer will be able to churn out work in less time (= “Faster”) and hands-on control of the work by lawyers will result in higher quality (= “Better”). The reality of SR is much different. SR requires substantial time from the lawyer, not only to learn the software, but to train it to the nuances of the lawyer’s voice to achieve a high-recognition rate.

Furthermore, SR does not know how to do the formatting and other “prettying-up” of a document that transforms it into a professional product (this requires the creation of precedents and other

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pre-formatted documents or the input of a secretary who transforms the raw product). Last, SR requires high-powered computers and other associated hardware and software. Unquestionably, for certain lawyers SR can be a godsend (those who do not touchtype and for whom traditional dictation doesn't allow them to get "hands on" with the document).

The core systems

At the core of every practice are five automated systems that, in my opinion, form the foundation for an automated practice and, when implemented, go a long way towards achieving this objective. These core systems are: *financial software*, *word processing software*, *case management software*, *research software* (browsers and internet capability) and *communications software* (email and fax). What is interesting is the increasing interconnection of these systems, either through integration of two or more systems within one product or the linking together of more than one product.

Accordingly, I will look at the tools in each area and how they work along the axes of "better, faster, cheaper" to allow you to determine which tool or tools would work best in your practice.

Financial software

Every firm must have a financial recording and reporting system — yet all financial systems are not created equal. Furthermore, while accountants need access to accounting tools that produce balance sheets and yearly income and expense statements, lawyers need access to financial tools that produce meaningful monthly or weekly reports for managing their law business. We are also seeing a trend in traditional accounting systems, which once focused only on general and trust accounting, now integrating into other systems and offering such features as the production of management resources.

Conflicts checks and calendaring features, including bring-forward systems, are now appearing in accounting systems. PCLaw, for example, has expanded its client database to include expanded contact management. This feature allows you to create a database of contacts — clients, lawyers, experts, witnesses — so these references will pop up in a conflicts search. Case management has been linked to accounting software to share resources (client and file names, billable time links) for several years now. For example, Amicus Attorney and Time Matters will link to accounting software such as PCLaw or ESILAW and now Quickbooks, and some vendors have developed one product that does both (for example, ProLaw and the Integra Office System).

This integration falls along the "Better" axis — you can eliminate the paper systems in the office and do more with your existing automation system — and "Faster," since BFs and conflicts checks take less time using a shared database. To the extent that sharing data eliminates repetitive keystrokes, it can also be "Cheaper." But there is an offset — integrated accounting systems cost more and take more time to learn and apply in practice than basic systems.

Word processing software

The two leaders are Word (<http://www.microsoft.com>) and WordPerfect (<http://www.corel.com>), with a handful of other programs out there. While the choice of a word processing program may seem a rather routine matter, the choice of word processing *vendor* and *product* can have a direct impact on how you automate your office. Each product has a different focus, and each product integrates with other products in different ways.

Many law firms seek to have the same program as their clients (which usually leads them to Word). Compatibility with clients, however, is but one issue and not necessarily determinative, as the ability to work in one product with documents created in another is increasing all the time. Here the productivity gains can be quite high if you wish to invest time and effort into creating precedents using styles, merges, macros and other “higher order” functionality to build sophisticated precedents and further integrate these precedents using databases. Each product does this slightly differently.

Case management software

These products have matured and now incorporate some higher order functions.

The leading products here are Amicus Attorney and Time Matters. Integra Office System and ProLaw are two products that have incorporated some or most case management functionality, reflecting the greater integration between applications.

These products fall along the “Better” and “Faster” axes. They start by taking the traditional file orientation of a law office (thereby distinguishing them from the contact managers such as Outlook, Maximizer, GoldMine and others) and mirroring this through an electronic file system. Case managers then take this electronic file system and populate it with all the people associated with the files (other lawyers, clients, witnesses, experts, adjusters), thereby providing contact management capability. This information integrates into an electronic calendar, a billable time module, a communications centre that tracks and logs all incoming and outgoing calls, messages and emails, a document management system and more. These different systems work together to provide a law office with most of the essential systems (conflict checks, BFs and To-Do's, detailed time entries for billing purposes and the like). The integrated file and contact database allows you to search any potential client's name to see, not only if that person has been associated with any file in the office in any capacity, but also to see the file on which the reference arises.

The file and calendar modules allow you to maintain your To-Do list and integrate this into your calendar, alarms and BF reminders. The “chaining” and “bring forward” precedent ability in case management allows you to build a series of reminders. For example, in advance of a trial, there are production of evidence dates, certification of trial forms, pre-trial hearings, witness preparation. All these dates and reminders can be placed into one pre-trial reminder precedent, which automatically enters the requisite dates into your calendar (once you know your trial date).

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I have seen one intellectual property lawyer use this “chaining of dates” feature in ProLaw’s BF/Calendar module to establish over 200 future date reminders and deadlines, once a patent filing date is known. Moreover, since his procedures are standardized, these reminders in turn generate documents to clients and to patent filing offices that move the patent application forward. No question that this is a superb example of automating a practice along both the “Better” and “Faster” axes.

Furthermore, case management products are now integrating email capability (Time Matters and Amicus Attorney), document management and knowledge management. Amicus Attorney in fact calls itself “The Law Office on a Computer,” and this motto is apt.

Research software

It has become trite to say that lawyers are knowledge workers. Lawyers need access to both legal and general research sites. A high-speed internet connection is required with appropriate internet search software (Microsoft Internet Explorer or Netscape Navigator) and security firewalls and anti-virus software. Also important are subscriptions or bookmarks to research sites as appropriate to your practice: (Quicklaw, e-carswell (<http://www.ecarswell.com>), CANLII (<http://www.canlii.com>), Supreme Court of Canada decisions, federal and provincial statutes and CLE providers.

These days a working understanding of on-line legal databases, search methods and search engines is a good idea, for example, when is it appropriate to search on e-carswell, <http://www.lexis-nexis.com>, <http://www.findlaw.com> or Quicklaw? (*For more on this, see a comparison of collections of Lexis-Nexis, Quicklaw and e-Carswell prepared by Sue Beguin and available on the Practice & Ethics page of the Law Society website.*)

If the other side has proffered expert testimony, you can use <http://www.google.com> to “googlize” them — in other words, find out the expert’s background. Research software is essential to quickly finding out about people, jurisprudence and general research without having to spend hours in a traditional library (assuming that a traditional library could hold all the information now available via the internet).

Communications software

E-mail is the “killer application” of the internet — and the volume of email transmitted across the internet is truly staggering. The ability to share drafts and quickly move information around without couriers and slow delivery mail is astounding — especially when dealing with someone across the world. Yet email is but one communication tool available. Faxing by the internet is also possible.

More recently, lawyers have begun practising in virtual work spaces (extranets). Teams (such as litigators) can share drafts, work papers, pleadings, transcripts, photographs, notes, discussions, calendars — where many eyes must look at the same bit of information and make notations and changes that must be seen by all. This ability to work on the same project while in different time

zones and countries, and bring in those who have an interest in the proceedings (such as tax accountants, local lawyers, affiliated experts), cannot be undervalued — especially these days when corporate and business travel is being curtailed.

These extranets lie definitely along the “Better” and “Faster” axes.



Part Two: Beyond the basics

In this second part of this article, we explore taking the process of automating a law practice beyond the basics.

Prologue

Once you have the core system in operation (financial management, case management, word processing, research software and communications software — and as you can see, this can give you a *great deal* of functionality already), you are ready to take it to the next level. Where you go here is dependent on the type of practice that you have, the strategic direction you wish to go (which two of “Better, Faster, Cheaper” do you wish to pursue?), the time and resources that you have available and not the least of which, the climate in which you operate. The last factor is ultimately the most important, in my humble opinion. Many lawyers have called me and stated “I would like to introduce some new technology around here, but I don’t know about So-and-So — he/she isn’t about to change their ways.” It is a sad fact that lawyers are like mules — there ain’t no way you are going to get them to move unless and until they are darn well ready and willing to move. Building a system that isn’t going to be used by everyone is simply not an efficient use of time and resources — since you will then be maintaining dual systems — unless you foresee that the holdout(s) will be pressured into changing if the entire office around them changes.

Given that you have all the personal factors, office politics and the stars in alignment to take the next step, what could that next step be? Here is a selection of ways to go that extra step to automate your practice.

Document assembly

Whether it is a litigation practice or a solicitor’s practice, in all likelihood there are at least a handful of documents that you must create time and time again (mortgages, statements of claim and affidavits, reporting letters etc.). There are a number of ways to automate this process — from using the Merge facility in Word or WordPerfect to sophisticated document assembly programs such as HotDocs (<http://www.capsoft.com>) or Ghostfill (www.ghostfill.com) or by using a database program such as Microsoft Access with MS Word — all of these programs can create documents from a standard word processing precedent library.

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Case Management software (such as Amicus Attorney, Time Matters and ProLaw) can generate documents such as standard retainer letters, pleadings, fax cover sheets and the like using the information stored in their Contact database. Amicus Attorney can also generate documents using HotDocs and Word or WordPerfect's merge facility. Somewhat less sophisticated is a program such as ActiveWords (www.activewords.com) that is akin to AutoCorrect in Word but on steroids. ActiveWords allows you to create keyboard shortcuts for the insertion of standard wording such as contact information into a letter form.

To see how HotDocs works, go to <http://www.lexisone.com/store> and try any one of the Free Forms that are in HotDocs format (such as the California will under the Estate Planning area).

To see Ghostfill in action, go to their web site (www.ghostfill.com) and take the 15 min tour.

To try ActiveWords, go to their web site and download the full version — you receive a 30 day free trial (www.activewords.com).

Document Assembly falls along the “Better” and “Faster” axis, in my opinion, since you are building a standard set of precedents and no longer rely on the “search and replace” method of document creation.

Document management

Finding the proverbial needle in a haystack is the purpose of Document Management software. The leading products here are Worldox (www.worldox.com), DocsOpen (www.hummingbird.com) and iManage (www.imanage.com). It is true that they do things such as archiving, document version control, full text searching and indexing, but the heart of these programs is the ability to find a document that exists somewhere on the LAN, deep in the heart of someone's hard drive that you recall seeing some indeterminate time in the past.

Document management has in a sense spawned or at least been a forerunner for a new area of study entitled “Knowledge Management.” In a nutshell, knowledge management means being able to find the person in your organization that knows about an issue — quickly — and being able to tap into their wisdom.

What is KM? Good question — Dr. Yogesh Malhotra of the Syracuse University School of Management defines KM as follows:

Knowledge Management caters to the critical issues of organizational adaption, survival, and competence in face of increasingly discontinuous environmental change. Essentially, it embodies organizational processes that seek synergistic combination of data and information-processing capacity of information technologies, and the creative and innovative capacity of human beings.

The International Standards Organization is developing ISO 9000 standards for KM.

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Knowledge Management tools range far and wide — from Expert Systems (that assist someone to “think” using the judgment of others that has been captured in a sophisticated decision tree-like analysis) to email “filter” systems that discern who in an organization knows about certain things based on their email history. These tools are developing and evolving as we speak.

I would place Document Management under the “Faster” and “Cheaper” axis, if it results in your finding documents in less time as compared to your paper-based system (which it should).

Knowledge Management is one that I would place along the “Better” and “Faster” axis.

Specialized packages

There are software packages that are continually being developed to support lawyers in specific practice areas.

Corporate records management software to real estate, estates, family law and others

www.cakeware.com
www.dyedurhambc.com
www.doprocess.com
www.highlander.ca
www.data-care.com
www.e-incorp.ca
www.divorcemate.com
www.childview.ca
www.infoware.ca
www.jls.ca
www.teranet.ca

Document precedents

www.dyedurhambc.com
<http://iaw.com/~thomform>
www.ucdocuments.com
www.nereosoftware.com/lexwrite.htm
www.findlaw.com
www.lexisone.com

Specialized personal injury case management software

www.needpins.com
www.denovosys.com

Litigation software

Litigation software is an especially active area of legal software activity — probably since litigators are willing to go to almost any length if it assists them in winning their case.

Accordingly, litigation software can start at the Case Management Stage, to organize the file, the parties, the witnesses, the BF and limitation dates and all the disparate bits of information including documents, telephone calls, emails and notes.

From here, a litigator can image all hard copy evidence (documents, photographs, hand-written notes, etc.) and OCR them (optical character recognition) and store both the graphic images and the OCR files in a database. Then the litigator can use an evidence analysis package such as Searchlight (www.searchlight.ca), Summation (www.summation.com), Almost Paper (www.almostpaper.com) or Concordance (www.dataflight.com) to either search by keyword or to build a database of issues, facts, people and the like and associate the evidence with the issues.

From here a litigator can use litigation strategy products such as CaseMap, TimeMap and NoteMap (www.casesoft.com) to strategize, to build timelines and to outline and brainstorm their case.

Along the way the litigator can use products such as www.redianalysis.com which is Trial Preparation software.

In discoveries and in trial, the lawyer need not take notes while a witness is giving evidence if they have acquired LiveNote (www.livenote.com) which is Real-Time Transcription software delivering a full transcription of all evidence as the evidence is being given.

There are other products such as JFS Litigator's Notebook which is an electronic version of the traditional litigator's three-ring, tabbed and indexed trial notebook (www.bowne.com/solutions/litigation/notebook.asp). Version 7 of this product now extends its capabilities to workgroup settings.

Lastly you will be required to take the case to trial. There are several products that can assist you in conducting your trial from a jury summation using a PowerPoint presentation all the way to a full digital trial using such products as the Director's Suite Trial Presentation Software (www.trialdirector.com), Sanction (www.verdictsystems.com) TrialPro II (www.trialpro.com) and Visionary (www.visionaryinfo.com) software which allow you to easily organize, display, and control your demonstrative exhibit presentations for trial. You can display two exhibits side-by-side, you can order your exhibits for quick presentation and you can display a document, photograph or other image immediately in front of the jury, the judge and counsel. The time saved using this method can be substantial as compared to referencing multiple document books and placing an exhibit before the judge, the witness, the jury and counsel.

This is just a small selection of the vast array of legal and general software that can be used by lawyers to automate their practices. There is one last part of the puzzle that is required and perhaps the most important, which is why I left it to the end.

The vision

Carl Sandberg once wrote that “Nothing happens unless first a dream.” Numerous studies by notable researchers at such schools as MIT Sloan School of Business show that one company can spend money on information technology and achieve a strategic advantage while another simply spends money.

To be effective in the application of information technology and thereby build an automated practice, you need a full understanding of who you are and where you want to go — and how spending money on infrastructure can take you closer to realizing your dream. Once you have that image firmly in mind, then you are ready to build your future.