

TECHNOLOGY FOR LAWYERS 2004

Vendors

V6: Platinum Legal Inc.
Winning Your Case Electronically

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Ontario Bar Association
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of Legal Technology

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Winning Your Case Electronically

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Introduction

Winning your case electronically sounds good,
but what does it really mean?

- **Collecting** information from varying sources
- **Creating** an electronic body of information
- **Analyzing** all available information
- **Presenting** the relevant information

Creating and Using an Electronic Body of Evidence

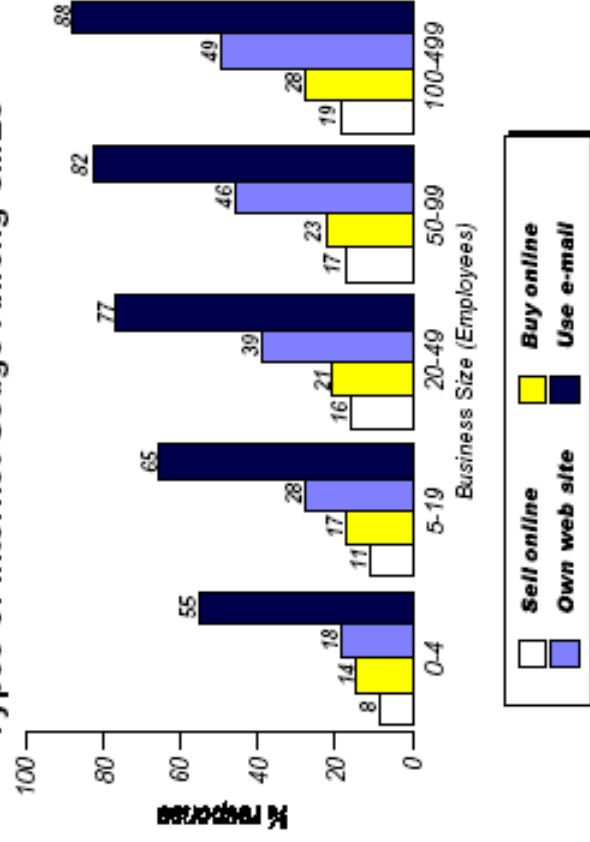
The proliferation of technology has resulted in numerous sources of electronic information

- Emails
- Electronic files – word processing, spreadsheets
- Document management software – track revisions, versions, access
- Metadata associated with all of the above

Creating and Using an Electronic Body of Evidence

E-mail has become an indispensable method of business and personal communications

Figure 2
Types of Internet Usage Among SMEs



Source: Canadian Federation of Independent Business, results of *Our Members' Opinions Survey #46* (Q2, 2000)

Creating and Using an Electronic Body of Evidence

Paper still exists but can be managed effectively in an electronic format

- Traditional approach to litigation can result in relevant documents being paper copied 5 - 7 times
- An initial electronic version can reduce cost, encourage exchange, and prevent a 10 box case from becoming an unmanageable 50 box case

Creating and Using an Electronic Body of Evidence

The benefits of an electronic approach to litigating a case will be examined in the context of three key phases

- Case Planning
- Case Preparation
- Case Presentation

Case Planning

The success of using an electronic approach to litigation is dependent upon a variety of factors

Case Planning

Sound advice from technology / litigation support resources

- Litigation tool(s)
- Database design(s)
- Electronic discovery
- Quality assurance
- Collaboration – electronic exchange

Case Planning

Understanding the role of technology

- Choice of technology should be secondary to proper management of the case
- Technology should be complementary to the process
- Electronic information should be interchangeable within technologies

EXAMPLE: Growing interest in complex / document intensive cases for electronic disclosure

Case Planning

Availability of litigation tools to the legal team

- Document management
- Transcript management
- Pleadings
- Work product
- Demonstrative evidence

EXAMPLES: Summation, CaseMap, Storm-X,
Sanction

Case Planning

Capability to use tools

- Processes – standards, protocols
- Training – adequate, available
- Support – access to resources (internal/external)

Case Planning

Understanding of the inter-relationship dynamics of the legal team

- Lawyer
- Investigator / Expert
- Litigation Support Resource

Case Planning

Reliability and availability of litigation support services (internal / external)

- Document scanning / coding
- Electronic data conversions / manipulation
- Electronic discovery
- Expert analysis
- Strategic advice on approaches to case specific issues

EXAMPLE: convert paper banking or cell phone transactions to text, import into format for analytical review by expert / investigator

Case Planning

Advantages to be realized through a strategic approach to litigation support

- Cost effective – budget
- Leverage technology benefits – start to finish
- Skilled resources – experienced lit support
- Effective representation – assemble resources

EXAMPLE: client conducted the imaging and coding on a large construction matter in-house without litigation support advice

Case Preparation

Preparing your case requires the efforts and expertise of the entire legal team

Case Preparation

Collection and analysis of information occurs during this phase

- Interviews – need to speak to IT support within client environment
- Document Review / Exchange
- Examination for Discovery
- Investigative / Expert Reports

Case Preparation

Electronic organization of information is key

- Body of evidence will continue to evolve and grow
- Collaboration is impetus for accessibility / portability
- Best practice to manage information in one place where feasible

EXAMPLE: attend witness interviews with laptop
and record comments directly into
document database

Case Preparation

Analytical review and sharing of findings

- Electronic document review and work product collaboration is paramount
- Consider expert / investigative reports created with hyperlinks from facts / findings to evidence
- Electronic document exchange

EXAMPLE: HTML document list or Storm-X
data file for client or expert review

Case Preparation

Advantages to be realized through leveraging technology during case preparation

- Distill relevant information from irrelevant quickly
- Accessibility for collaboration
- Better quality investigation / analysis
- Cost savings

EXAMPLE: review large volumes of information that may relate to multiple issues / witnesses

Case Presentation

How facts of a case are presented can be just as important as the effort undertaken to prepare it

Case Presentation

Issues that affect case presentation

- Court / mediation / hearing rooms are not adequately equipped
- Budget allocation
- Comfort level with technology
- Planning - trial consulting services

EXAMPLE: active trial in Ottawa

Case Presentation

Judges are starting to use the technology to review evidence and make notes

- Court orders directing parties to exchange documents and descriptions electronically

Case Presentation

Advantages to be realized through leveraging technology for case presentation

- Appeal to numerous senses – visual, oral
- ‘A picture is worth a thousand words’ – rings true

EXAMPLE: fraud case concerning
embezzlement of company funds –
show consistent pattern

Case Presentation

Advantages to be realized through leveraging technology for case presentation

- Influence thought process – electronic factum

EXAMPLE: prepared an electronic factum outlining our position and supporting evidence

Closing Remarks

Winning a case electronically requires

- Proper planning
- Access and use of skilled litigation, investigative, and expert resources during case preparation and presentation
- Willingness to explore beyond traditional boundaries with the use of technology