
HOW COMPUTERS IMPROVE YOUR WORK - AND YOUR LIFESTYLE



BY MARK E. FERGUSON Esq.

Technology-conscious lawyers and law firm technology staff often ask how they can pull their partnerships in the right direction more quickly. The easiest answer is to let them know just how useful a \$2,500 piece of equipment can be. If a clipped copy of this article will help advance the general awareness of the broader membership of the Bar, it will have served its purpose.

A lawyer's principal function is to collect, organize, manage, and present information. This is what computers do best. While law firms have long embraced technology in the back office to capture billable hours and issue invoices, only recently have lawyers begun systematically to consider what uses they can make of this information processing power.

There can be no real debate that computer-toting attorneys have a significant advantage over those who refuse to embrace technology. And while greater techno-sophistication yields greater advantage, even moderate computer proficiency can produce tremendous gains in both efficiency and quality. The best news is that these advantages are available to all. Computer hardware is now sufficiently robust and software sufficiently user-friendly that a lawyer does not need to have the support and other resources of a big firm to computerize his or her practice.

Although there are numerous specialized programs that are designed for use exclusively by attorneys (many of which can be quite useful to those who have need of the specialized functions they perform), the first step for any lawyer is to master and fully utilize basic applications email, word processing, spreadsheets, and simple search programs. Even if only these applications are mastered, much can be gained. Additional general purpose applications - i.e., data bases, precedent retrieval systems, graphics, drawing, and presentation software - can add to the advantage.

This article does not attempt to deal with highly sophisticated uses of these applications, nor does it deal with specialized or customized applications. Rather, what follows are straightforward uses developed by practicing lawyers for off the-shelf products. To the sophisticated computer user, much of this discussion will seem

mundane. But many lawyers still have not even learned to turn on a computer, and most who have computers still are not fully using the equipment on their desks and in their Rhino bags. It is to these people that this article is primarily addressed.

Typing Proficiency - The First Step Forward

Probably the single largest impediment to lawyers' acceptance of the computer is that so many of us over the age of 35 never learned to type fast enough. And it is true that below a threshold level of typing skill, the efficiencies that can be derived from using a computer are minimized to some degree. But what most slow-typing lawyers don't realize is how easy it is to get faster. There are many inexpensive and excellent typing tutorial programs that really work (Mavis Beacon's offering is excellent by the accounts of many colleagues). Lack of keyboard skills need not stop anyone who is otherwise interested in computerizing.

Email - The Backbone of the System

Not long ago, email was a neat toy that cost a lot of money. It was used in law offices mainly to pass along phone messages and short, firm-wide announcements. Many firms still use email primarily for intraoffice communications. Although this does reduce the cost of paper communications (and has salutary environmental side benefits), it leaves untapped the true power of electronic communication.

What email does best is facilitate mobility. A lawyer on the road with email can draft, send, and receive documents; the system can be programmed to retrieve electronically filed precedents, report developments, and receive responses from the client; and (still on the road) counsel can obtain annotated transcripts of depositions occurring in other locations -all within minutes. In essence, email makes it possible for a lawyer to do in a hotel room (or, these days, in an airplane seat) almost everything that he or she does in the office.

Networks. For firms or law departments that have more than a few lawyers, the best solution is a networked system, residing on a central server, with software for access by modem. There are a number of well-established software selections that perform these functions, including MicrosoftMail, Lotus Notes, and ccMail.

Clients can be added to the system in several ways, depending on their individual requirements. If the client has its own network, the two servers can communicate through one of the commercial gateways, such as MCI Mail and AU Mail. The interface, as viewed from either person's desk, is seamless. (In some cases, there are still delays in transmission through the commercial gateways, but this is improving). If the client does not have its own networked email system, the client can use remote access software to communicate with the law firm's server by modem.

For lawyers practicing alone or in numbers for which a networked system is deemed too costly, most of the benefits can be achieved by using one of the commercial services such as CompuServe, AOL, and Lexis CounselConnect (although care should be used with respect to privilege issues, the law on which varies from state to state). All provide private mail services through which digital files can be sent and received. Alternately, remote soft-ware can be used to access a client's networked system, if the client has one.

Of course, to make full use of the mobility that email can provide, lawyers must carry their computers with them. Thus, lap-top rather than desk-top computers become critical. (Lawyers who don't travel much may be able to make relatively good use of email with two desk top computer -one at the office and one at home, so long as they are willing to carry their working files on floppy disks or retrieve them online from the office.) The continuing advance of technology has brought the costs of laptops and modems well within the range of afford

ability for almost everyone. With a lap-top, key files and applications are always available and there is no risk that some portion of the week's or weekend's work will be missed in the downloading process.

The True Power of Word Processing - What Wang Missed The First Time

Within the legal profession, word processing has long been the domain of typists and secretaries. But a lawyer who drafts and revises documents herself on the computer has better control over the work product, and will inevitably increase her productivity. No longer must the lawyer wait for the secretary to type a first draft, wait for handwritten revisions to be input or correct mistakes made in transcription. This alone saves many hours from the average lawyer's week. At the same time, the lawyer can instantaneously cut and paste, reorganize, reconsider, and undo what she has done in minutes rather than hours.

Again, the real advantage comes when the lawyer is away from the office. The lawyer who does his own word processing is never dependent on the availability of a secretary for document creation. In negotiating sessions, the lawyer who has his laptop with him can revise the contract on the fly, print out new drafts, and close deals that might otherwise drag on while the parties retreat for the next exchange of drafts. A trial lawyer in court can print out and hand up revised draft orders, jury instructions, and even exhibits within minutes of the court's ruling. "Down time" on airplanes (and even commuter trains) becomes gold-plated, as a time for review, revision, and annotation of briefs and depositions, transactional documents, and potentially the entire file.

Equally important, a lawyer who can do these things doesn't need to go to the office to do this work. The weekend commute is eliminated, family time is maximized, not just for the partner, but for associates, paralegals, and secretaries. When illness or an emergency requires it, work can be done at home without a loss of productivity. All this makes it easier for lawyers to juggle work with home responsibilities. And, as has been demonstrated over and over again, a happier team produces better work.

Precedent Retrieval - Once Invented, The Wheel Is Continuously Improved

An important advantage of computerization is the creation of storable and retrievable digital precedent files, notes, and other compilations. But this is only half the battle. Without a way of easily finding/accessing what you have stored, the usefulness of these files is greatly reduced.

The problem is solved by a document storage and retrieval system in which a database is integrated with word processing (and in some cases, other applications) so that every document created is indexed and word searchable. With such a system in place, repetitive research assignments are greatly minimized; recent briefs and memos, containing the latest authorities, can be retrieved in seconds. Similarly, transactional documents can be easily located; from these, needed boilerplate can be cut and pasted with ease. As these documents are reused, they are improved with the input of more and more minds and are updated with new authority. This reduction of wasted effort, along with the improvement in quality, justify the cost of the system.

Brief-Writing Aids - Freeing the Brain Surgeon to do Brain Surgery

With or without office automation, a great deal of time is spent actually writing briefs. This will not change until artificial intelligence replaces lawyers - something that practicing attorneys of all ages believe will not happen until after they reach retirement. But the process of getting a brief put together and filed is a fat target for

computer-aided streamlining.

Almost all of the clerical aspects of the production process can be significantly automated. Programs are now available that will take a brief, correct cite form, "Shepardize" cited cases, flag other potentially relevant authorities, and create tables of authorities and indices. These systems will not replace the judgment of a lawyer (at least not until after my pension vests), but they do dramatically reduce the amount of time expended on clerical processes.

Transcript Search Programs

No litigator should be without a transcript search program. These programs that computerize deposition and trial transcripts combine them with search and retrieval engines (which facilitate Boolean word searches, annotation, excerpting, and compilation of summaries). Work that can take literally days if done manually can be done in minutes with a computer.

When all the transcripts in a case are computerized, there is no use for deposition abstracts and summaries (which are generally completed at great expense by hourly-billing paralegals and junior associates who likely don't know what will be important at trial). There is also no need to pay for manual searches of paper transcripts. Used most effectively, the lawyer who takes the deposition annotates it immediately and those notes become part of the file used by the entire team. Important testimony can be categorized by subject heading and later retrieved in the same categories. Others can add their own comments and cross references to other important testimony and documents. Key passages are easily identified, and everyone has the benefit of that lawyer's thinking when the depositions are used in subsequent preparation.

These programs interface with real-time transcript systems that allow lawyers to see transcribed testimony on-screen as it is being given, to excerpt and print portions for immediate use in examinations, and to create annotations as the witness speaks. The advantage that can be gained in depositions and at trial from effective use of these systems cannot be overstated.

Spreadsheets For The Mathematically Challenged

Historically, for many of us, our understanding of spreadsheets was limited to what we gleaned from watching a financial, accounting, or economic expert testify. There was a time when specialized knowledge truly was needed to make these programs work. No more. Almost all general purpose spreadsheets are accessible - even to those whose math skills peaked in fifth grade. While still leaving complex regression analysis to the experts, a lawyer willing to experiment can use a spreadsheet to analyze data downloaded from other sources and to create quick and surprisingly good graphic depictions of trends, relationships, and figures. Without much more expertise, a lawyer can load and analyze opposing economic models to learn where the critical assumptions are and what impact changed assumptions will have. Although these uses take some facility with the basic program, and understanding the data being processed, none is beyond anyone who has passed a multistate bar examination.

Global File Management

Organization of the case file is critical to success at trial. The lawyer who can identify and retrieve the critical piece of evidence will succeed -- even if the opponent has the better case, all other things being equal. Databases make it possible for every member of a litigation team to build, revise, use, and comment on the entire case file, from the office or from remote locations, simultaneously and without the intervention of a clerical or paralegal assistant. When augmented with a document imaging system, these programs allow free-form organization and use of all relevant evidence quickly and inexpensively (compared to the hours and pages of copies that must otherwise be paid for). The lead lawyer, sitting in a deposition, can search for and find a key exhibit, learn how it has been used in other depositions, print a copy, mark it for identification, and obtain additional testimony about it, all in about the same time it would take to call someone in the office and describe the exhibit needed. The same can be done at trial.

The general database software available today is stable and easy to adapt for trial work. Imaging systems are still being improved; not all are at the stage where they do everything without hiccups. But the time is fast approaching when litigating without such an integrated system will be like entering the U.S. Open with a wooden racket.

Getting Started

It is easy to read an article like this and throw up your hands in despair. I know, because I did for many years. And if lawyers had to learn everything in a two-week crash course, most would leave it to the true weenies among us. But luckily, the slow pace of technological advancement within our profession today has preserved the opportunity for all of us to jump on and catch up. This may not be true forever. There will be a time when the new law school graduates know all of what I have described here and more, before they even apply for a bar review course (the CD-ROM version). When that comes to pass, those of us who actually remember the binding colors of the various printed reporters, treatises, annotations and hornbooks, and who haven't also learned the icons of Lexis-Nexis, Delrina, Novell, Microsoft and Lotus will be lost.

Mark Ferguson, Esq. is one of the founding partners of Bartlit Beck Herman Palenchar & Scott LLP, a law firm with offices in Chicago and Denver. Mr. Ferguson can be reached at 312-494-4400 or mark.ferguson@bartlit-beck.com.