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Ignoring law firm automation not an option

This article is adapted from a presentation by Lewis S. Eisen, an Ottawa lawyer and computer consultant, at "Technology for Lawyers '93" in May. The conference and exposition were organized by the Law Society's Department of Continuing Legal Education and the Canadian Society for the Advancement of Legal Technology.

Lawyers need to change the way they think about office automation. Statistics indicate the legal profession is lagging far behind other businesses in adopting computer technology and learning how to use it efficiently.

The sole practitioner opening a new office has needs and resources that are different from a larger established firm, and the relative startup and maintenance costs of technology are not insignificant. But regardless of a lawyer's practice situation, computers and the training that makes them useful should be seen as an investment rather than an expenditure. In order to make wise investments in technology, lawyers must expand their knowledge of the subject. For practitioners who want to remain competitive and serve their clients effectively, both now and in the future, ignoring computers is not an option.

Changing Attitudes

The social stigma that once surrounded the use of machines by professionals has almost disappeared. Many lawyers are embarrassed by the fact that they are computer illiterate, something that was not seen just a few years ago.

These developments have followed a major shift in attitude about what a computer is. For a long time, computers were machines: at best tools, at worst toys. Law-

yers—traditionally a people- and information-oriented crew—did not need to use things to get their jobs done, especially things that were not books. Those who believed differently were seen as eccentric or as lovers of gadgets. But today a computer is not a thing; it is information. It is the lawyer's connection to the outside

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Because calls to the service are sorted by topic and/or available staff person, callers are also asked to provide a brief, general description of the subject matter to be discussed so their inquiry can be directed to the staff person best able to respond.

Practice Advisory can be contacted during business hours at (416) 947-3369.

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world, a calendar, a notebook, and a repository of knowledge. That change of perspective alone raises the credibility of the computerized lawyer.

But there will always be some lawyers who are unwilling to learn, and those who refuse to become computer-literate are holding back the profession. Computers are not going to go away. Examples of the profession's resistance to learning technology can be seen as early as law school and the Bar Admission Course. More than one student has objected to learning to use computers in practice, with rationale such as "I'll never need to know that," "We'd hire a consultant to do that," or "Lawyers don't have to make those decisions."

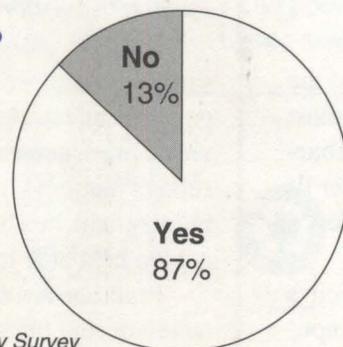
At one time, learning about technology was for some a curiosity and for others the reluctant acceptance that computers are the way of the future. The prospect of obsolescence loomed ahead. There is now a more general acceptance of automation as a way of life; more importantly, there is a genuine belief in the benefit of being a technologically-literate professional.

Feeling Devalued

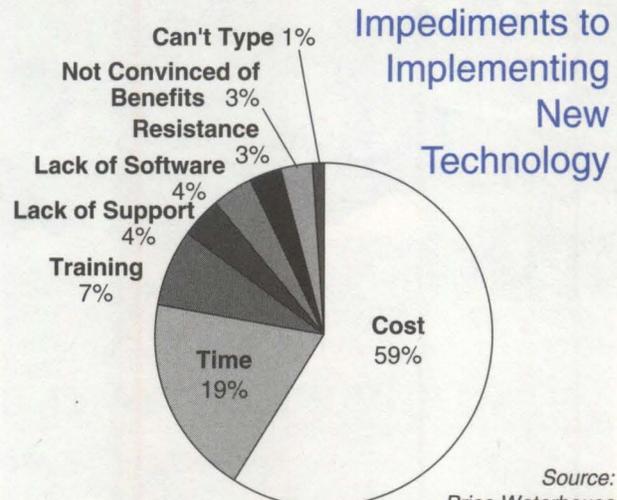
Fears about technology have changed in recent years. The cry that computers are "taking over the world" or "dehumanizing society" reflected what was perceived to be an unwelcome change of societal values in general, and of practice values specifically. "Computers are turning us into typists" is the example heard most often. This clearly represents a fear of devaluation of self, that somehow, by using a machine, one's skills are not worth what they once were.

In the 1990s there is no excuse for a lawyer not to be able to use a computer to retrieve information,

Do you believe computers can help make better lawyers?



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when it means access to firm file information, accounting information, in-house research and a myriad of other resources. Very soon, not using a computer for legal practice will be at best slipshod and at worst negligent.

Today's lawyers fear less that they are becoming typists than that they are becoming programmers and technical support for their staff. The 1990s lawyer is torn between tasks, trying to balance legal skills with technical skills.

Which key do I press?

With few exceptions, there has yet to be an integration of legal training with training in computer technology. The vast majority of computer training offered to lawyers and their staff is still of the which-key-do-I-press variety. People are still being taught legal writing using a pad and paper, when the wave of the future is moving toward drafting on the keyboard. People are not yet being taught trial planning strategies using litigation support software, although it is increasingly difficult to compete in the litigation world without automated support.

Technology holdouts need to be dealt with intelligently. Some people do not relate to machines as creative tools. Their learning will only begin when things are made easier for them. For example, moving from reviewing data on paper to reviewing it onscreen is a simple jump. These individuals are much more likely to become users through the introduction of e-mail and calendaring than through more complex applications like spreadsheets and databases.

We have long passed the stage where using a computer is solely a matter of what key to hit. For those taking advantage of the graphical user interface of Macintosh or Windows, actual functional training has been reduced to almost nil. The focus has shifted to other issues.

Concepts and Details

Learning to use a computer program should be concept-based, geared to clarifying the purpose and benefits of different features, and distinguishing when each is best used. It is seemingly redundant to learn three different ways of moving text (or summing a column or retrieving information) if there is no explanation as to the situations most appropriate for each.

Viruses, data corruption and theft are the plagues of the computer era. Anything less than a thorough approach to data backup is a recipe for disaster.

Conservative estimates indicate that as much as \$10-billion worth of computer equipment was stolen across North America last year (notebook computers have the dubious distinction of being the most popular item for thieves). Little of it is recovered. But there are ways to protect oneself, and precautions that should be taken. Last year a Vancouver firm had its server and several workstations stolen. They had no backup.

The Michelangelo virus, benign as it was, taught a grave lesson: you cannot afford to be foolhardy with your system. It is not enough for a firm to set up a policy against inserting foreign floppy disks. Lawyers must be taught to design and respect systems of security that are appropriate to their needs.

Details such as typography should not be ignored. Laser printers allow users to create their own letterhead and forms quickly and cheaply, but the increased number of typestyles and type features provided to users have enabled them to produce some very ugly documents. It is not enough to know how to turn on boldface or italic if you don't know when to use them. Underline is an excellent example of a feature used incorrectly by many users, a carry-over from typewriter days that has not been corrected through training.

Productivity

Productivity does not automatically increase merely because one computerizes. In fact, many users find

the opposite, at least in the short term. When learning to use new tools, new work methods and processes must be also learned.

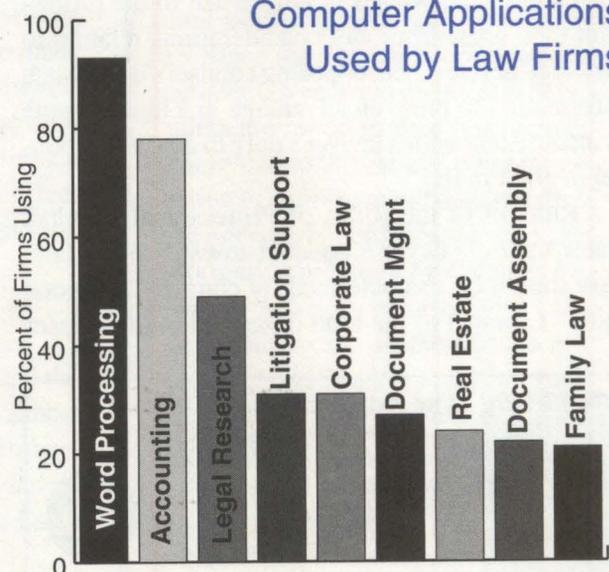
Lawyers can reap direct benefits from the use of professional productivity software, especially work management tools, including to-do lists, outliners, scheduling programs and telephone directories. They can learn to use the computer as a workflow manager, and to take advantage of its organizational abilities. The firm needs standards for document preparation, naming and storage, how it deals with multiple authors of a single document, and so on.

The computer has completely altered the movement of data within an office. These changes have implications for the ways in which data are captured, stored, classified and eventually retrieved. Lawyers need to work within the framework of these new work processes.

Even a non-computer user should be aware of the firm's hardware and software standards (e.g., size of diskettes used, word-processing package). The non-user should understand the general capabilities of the office equipment, to be able to answer simple questions from clients such as "Can I send you this document on disk?"

It is also necessary to understand the costs of doing business with computers. Is it cheaper to print or to photocopy? Or to fax from the workstation? What about e-mailing the client directly? Should

The Most Popular Computer Applications Used by Law Firms



Source: Price Waterhouse
1993 Law Firm Technology Survey (Used with permission)

faxes always be followed by a copy through the mail?

The Future

Finally, users must be prepared for the future. Lawyers, especially, must learn to be more forward-thinking, to know what technology is ahead so that they can begin doing some long-term planning for their firms' futures.

For example, some of the newer palmtop computers are fitted with an infrared transmitter and receiver. They are being developed to the point where users meeting each other on the street will be able to "point and squirt" their business cards at one another. Are you ready for this technology? When will you start to ask questions about it?

Just as lawyers must keep up on developments in the law, they must keep up on developments in technology. Without a vastly increased effort, law firms will continue to lag behind the rest of business in this area.

"Courtesy and good faith" should guide use of information

A recent series of complaints has raised concern about the use by lawyers of information disclosed to them by opposing counsel on a "confidential," "off-the-record" or "without prejudice" basis.

The Discipline Committee recently considered such a case and wishes to emphasize to the profession that, apart from any considerations relating to privilege or relevance, opposing counsel's use of such information to press an advantage in a legal dispute is inconsistent with a lawyer's duty to deal with counsel in good faith.

Rule 14 of the Rules of Professional Conduct states that a "lawyer's conduct towards other lawyers should be characterized by courtesy and good faith." Conduct of the kind described in these cases

is not only unethical, but undermines the mutual trust needed by lawyers to negotiate effectively on behalf of their clients. Given the serious consequences, engaging in conduct of this kind is likely to result in disciplinary action being taken.

Family Support Plan brochure for lawyers

The Ministry of the Attorney General has recently published a brochure that will assist family law practitioners in drafting "enforcement-friendly" support orders and in learning the nuts-and-bolts aspects of the *Family Support Plan Act*.

"A Lawyer's Guide to the Family Support Plan" notes that the legal community plays a central role in helping the Plan carry out its statutory mandate of ensuring that spousal and child support obligations are honoured.

The bilingual booklet contains a number of tips and reminders which can help lawyers and their clients make the most of this important social justice legislation. It spells out how to:

- ensure that there is a "support order" within the meaning of the Act and that items such as commencement date, amounts owing and due dates, cost of living adjustment, and terminating events are relatively simple and easy to determine
- complete the necessary forms and procedures to create a Support Deduction Order
- obtain a suspension order
- deal with cases where support has been assigned to the government
- deal with matters coming under the *Reciprocal Enforcement of Support Orders Act*
- assist a payor or a recipient in dealings with the FSP.

Copies of the booklet are available from any of the Plan's eight regional offices located in Toronto, Hamilton, Whitby, Ottawa, London, Windsor, Sudbury and Thunder Bay. Lawyers can also contact the FSP's head office at 720 Bay Street, 4th Floor, Toronto, M5G 2K1, Tel: (416) 326-4710, Fax: (416) 326-4735.

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