

LEGAL TECHNOLOGY

Predictions

> In 2006, expect many more small steps than giant leaps involving technological developments within law firms.

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Most signs point to a lull in legal technology in 2006. With new versions of Windows and Microsoft Office on the horizon and hardware more than adequate for most lawyers' needs, it will be easy for many firms to "go slow" on technology this year, and I expect many firms to do so.

Nevertheless, the Internet is more vital to business than ever before, and some great new legal tech tools are becoming available. A small number of firms will take some giant leaps in technology in 2006 and make the best of a great opportunity to break away from the pack, gaining new clients and more business in the process.

In my annual tradition of looking into the crystal ball, I offer the following predictions for legal technology in 2006, covering six key "big-picture trends" and eight additional specific predictions.

SIX BIG PICTURE TRENDS

Mobility and Collaboration. The biggest trend in 2006 will be an increased emphasis on mobility and collaboration. If we get hit with a bird flu pandemic or other disaster, this trend will be magnified. We are increasingly working with groups of people who are separated from us geographically.

From webinar tools to social networking tools to online workspace tools, we can now do this in more effective ways. It's also becoming the way that our clients work. Lawyers will find themselves moving or being moved in this direction in 2006.

What to watch for:

1. Lawyers will work in many places other than their desks as wireless Internet access becomes increasingly ubiquitous. The real-world needs of lawyers will run into the recent moves of IT departments to push lawyers onto desktop computers. In 2006, we'll start to see who gets to make these decisions in law firms.

2. Wikis and other simple collaborative workspace tools will get a lot of attention in the coming year. If "blog" was the word in 2005, "wiki" is already a candidate for the new word you will hear most often in 2006.
3. Microsoft Sharepoint Services will become one of the standard tools for collaboration in a significant percentage of large law firms, if the standing room only crowds at the 2005 ILTA conference are any indication.
4. Law firms will use the new generation of Web conferencing tools for delivering seminars and as a platform for audio and video conferencing for meetings, training and cutting travel costs.
5. Expect more telecommuting by lawyers who work from home and even join firms in other parts of the country.

E-Discovery: Evolution, Not Revolution.

Electronic discovery has developed much more slowly than anyone expected. While the trend is clearly toward growth in electronic discovery, growth

SHORTCUT

Esteemed legal technology consultant Dennis Kennedy delivers his industry prognostications for 2006, including six pivotal “big-picture trends” and eight additional specific predictions. Overall, he says, expect more small steps than giant leaps this year, as law firm technologies experience a brief lull.

will continue to be slow in 2006. Lawyers are still waiting for clarity in rules and procedures, and there has been little pressure from clients, judges and other lawyers so far. The main pressure continues to come from pundits and the approximately 5,000 vendors who fall into the category of electronic discovery.

The winners will be law firms that gain experience and expertise in electronic discovery by jumping in now. The losers, over time, will be law firms that represent large companies who use records management efforts to get control over electronic discovery and begin to eliminate lawyers from the discovery process wherever possible.

What to watch for:

1. Expect a growing realization that, once you learn about electronic discovery issues, electronic discovery may not be all that different than paper discovery.
2. Expect a shakeout and consolidation in the world of electronic discovery vendors, which will make decisions about vendors difficult for law firms, but also help to bring some clarity to what has been a very confusing market.
3. Plaintiffs’ law firms will push electronic discovery, and large clients will apply Sarbanes Oxley and other records management efforts to electronic discovery, squeezing many law firms in the middle.
4. The maturing and evolution of powerful electronic discovery tools – especially in the enterprise search category – will amaze you. Keep a close eye on tools that work for both electronic discovery and records management, such as DolphinSearch’s new DIAD tools.
5. More tools and services will be developed for smaller firms and smaller cases. I like the combination of tools like CaseMap and Adobe Acrobat 7 or CaseLogistix in this category.

The Internet Becomes a Platform. In 2005, the Internet truly became a powerful platform for a variety of practical applications, from making phone calls (VoIP) to generating information feeds (RSS) to facilitating online collaboration. The new trend

referred to as Web 2.0 has started to turn the Internet into a platform for simple, useful applications as well as a repository for information. Hurricanes and other disasters caused law firms to consider the use of Internet services for backup and disaster recovery. With the growing availability of broadband and wireless Internet access, the Internet will be fertile ground for law firms in 2006.

What to watch for:

1. Almost every law firm will consider Voice over Internet Protocol (VoIP) or Internet telephony. Someone recently told me about a firm that found it would cost more to move its phones and PBX to a new office than it would to put in VoIP at the new location.
2. Firms will turn to Really Simple Syndication (RSS) as a way to get their newsletters and other content to clients more effectively than by e-mail, let clients know about changes on extranet sites and provide case updates and other information.
3. Firms will routinely consider the application service provider (ASP) model, now in a more robust and mature form, as an alternative to hiring extra IT staff and installing costly new infrastructure. Hurricanes and other disasters got law firms’ attention in 2005.
4. Expect increased attention on Internet presence and “findability” as the number of people using the Yellow Pages to find local products and services continues to decline. Whether you blog, revamp your Web site or use other forms of Internet marketing is up to you, but you will need to make some serious efforts in this area in 2006.
5. Web 2.0 applications like Writely will let you easily collaborate on documents without the need to install hardware or software at your firm. Think of them as free (or low-cost) lightweight ASP alternatives for specific purposes.

Making Better Use of What You Have. As I mentioned, I expect to see a lull in technology projects in most law firms this year. Taking a wait-and-see

attitude on new technology projects, especially software and hardware installations, is not an unreasonable approach in this environment. However, it still does not make sense to stand still.

Experts say most of us use less than 10 percent of the capabilities of the software we have; so, 2006 will be a great year to make more effective use of what you already have. State bar practice management advisers are a great place to find assistance.

What to watch for:

1. A significant portion of technology budgets that might have gone to hardware purchases in previous years will be moved over to training budgets.
2. Law firms will increase the number of training resources and ways they train lawyers. Law firms will explore a wide variety of training options – webinars, videos, classes and focused classes.
3. Expect an evolution to short, task-oriented, practical training rather than overview course work. The idea of just-in-time or as-it-is-needed training will become more common.
4. Firms will increasingly require proof that they cannot do what is desired with existing software (or an update of existing software) before purchasing any new software. Expect more software audits.
5. Legal software vendors will provide – and their customers will ask for – much more training opportunities.

Improved Productivity Tools. The trend I've called "lawyers first" will continue to take hold. The emphasis at many law firms is still on what's best for the IT department or staff rather than what's best for the practicing lawyer. Technology-savvy lawyers will demand the tools they need, purchase the tools themselves, or leave.

If your firm plans to stand pat with technology in 2006, you will still want to consider carefully what productivity tools you can give to lawyers to help them in their daily practices. Many lawyers wish they could get some help with time management and other productivity aids.

What to watch for:

1. Expect continuing pressure from lawyers wanting help with time management, either using Microsoft Outlook enhancements or separate tools.

2. Several developments will allow lawyers to make better use of existing tools and reduce the burden of time-keeping and generating bills. One example is AIRTIME-Manager, which allows lawyers to use their mobile devices to capture time.
3. Expect a welcome trend toward the addition of project and work flow management into case management and other tools. These software modules or features recognize the way that lawyers actually work and how they delegate and monitor projects.
4. A growing set of tools will assist a lawyer in capturing ideas, brainstorming, putting together first drafts, etc. Examples in this category include Microsoft OneNote, CaseMap for litigators, outliner tools like NoteMap and mind mapping software like Mindjet's MindManager.
5. There will be a surge of interest in software that is specifically tailored to practice areas (e.g., family law tools for family lawyers).

Client-driven Technology Continues to Evolve and Grow.

Clients are often frustrated by the technology – and billing practices – of lawyers. What's more, they are starting to do something about it. Developments at DuPont, Cisco and other innovators garnered a lot of attention in 2005. Large corporations are beginning to track best practices, create purchasing consortia and pressure their law firms on technology. They see lawyers as service providers who should be catering to the technologies companies use and making it easy for them to work with the lawyer, not vice versa. With a recent survey indicating that 99 percent of the largest U.S. firms intend to raise hourly rates in 2006, corporate clients will no longer be passive.

What to watch for:

1. More, but not enough, law firms will survey clients about their technology desires and needs.
2. Many more corporate clients will push their law firms for improved delivery of services through technology or force law firms to move into the clients' technology systems.
3. Expect more than one widely publicized instance of a major law firm losing work to another firm when it did not provide a technology solution. One major example of this in 2005 got a lot of attention. In 2006, there may be shock waves.



4. Interest in extranets for litigation and transactional (deal rooms) practices will increase. My best guess is that intellectual property practices will become leaders in this area.
5. There may be surprising moves by large clients to small and mid-sized firms who cater to the technology needs of clients, especially if those firms also provide cost savings and budget certainty.

EIGHT QUICK SPECIFIC PREDICTIONS

1. Ethical rules designed for the 20th century will increasingly cause difficulties for the 21st century of legal practice, especially as some U.S. states take a more aggressive approach to regulation. The trend seems to be that states want to treat technological innovations in a negative light and do not adequately account for the role of the Internet in commerce.
2. Blogs will attract less attention in 2006 as interest shifts to RSS feeds and other forms of using technology to communicate with clients and market practices. Blogging will still be quite

important, but it will be recognized as a tool that is appropriate in certain settings, not as a universal solution. Group blogs and blog networks will be the developments to watch in legal blogging. Legal bloggers will continue to have a lot of fun and be a growing influence outside the legal profession.

3. The wait until new versions of Windows and Office are released will prompt a small, but still significant, growth in the use of Macintoshes and non-Microsoft software options. In Microsoft's favor, however, will be the growing interest in OneNote as an excellent tool for lawyers.
4. The ability to seamlessly share information among a variety of electronic discovery tools will become one of the key features to look for. Expect to see more electronic discovery vendors cooperate on this front.
5. The legal world will continue to evolve into a PDF world. Adobe's PDF is becoming the standard format for e-filing, for scanning documents in electronic discovery and for safely sending documents. Adobe Acrobat will become an even more essential tool for lawyers.
6. Law firms focusing on their core businesses will turn a variety of "essential" technology functions over to third parties, including security, disaster recovery, network maintenance, help desk and user support, Web hosting and even e-mail. What is your firm's core business?
7. Document assembly will make a strong return into the legal market. The most interesting developments will not be internal processes at law firms, but document assembly applications directed to (or developed specifically for) clients and delivered over the Internet. DealBuilder has turned some heads in this area.
8. Some innovative law firms will increasingly apply technology to create and use analytical tools that benefit their businesses and improve their services and profitability.

THE BOTTOM LINE

In a way, I'm seeing two worlds for technology in the legal profession in 2006.

In the first world, which covers most law firms, I expect to see a lull in major efforts and a chance to slow the pace or stretch out the plans a bit. As I

have said, that is not an unreasonable approach, as long as you don't try to fool yourself into thinking that you can get away with doing nothing at all. Money and effort can be productively targeted at training, tools that make lawyers more productive and their jobs easier, client-driven technology, Internet efforts and streamlining your technology while planning for 2007. That's the conservative world of small steps.

In the second world are the innovators. Often, these will be firms that already have a technological advantage over their competitors and have the chance to greatly widen the gap. They have a cornucopia of options. What's more, it will be a buyer's market for these firms, with substantial opportunities to seek discounts and have vendors work closely with

you in your efforts. That's the innovators' world of (potentially) giant leaps.

While we will definitely see many more small steps than giant leaps for law firms in 2006, those efforts to make the larger leaps with legal technology will be worth watching the most closely. *

about the author

Dennis Kennedy is a computer lawyer and legal technology consultant based in St. Louis, Missouri. He will be a featured speaker at ALA's 35th Annual Conference and Exposition in Montréal, and his Web site and blog www.denniskennedy.com are well-known resources on legal technology subjects. Contact him at dmk@denniskennedy.com.

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- *The Complete Internet Handbook for Lawyers*, by Jerry Lawson
- *The Manager's Pocket Guide to eCommunication*, by Laurie K. Benson
- *E-Mail Rules: A Business Guide to Managing Policies, Security, and Legal Issues for E-Mail and Digital Communication*, by Nancy Flynn and Randolph Kahn

The following articles are available in the *ALA Management Encyclopedia (ALAME)*, www.alanet.org/alame.

- "Technology Decisions: What to Buy?"
- "Transforming HR into a Strategic Partner: Automating Human Resources"
- "The Future of Technology: Leveraging Resources, Processes and Practices for Strategic Success"
- "Recordkeeping Strategies"

The following are accessible via ALA's Legal Management Resource Center, <http://thesource.alanet.org>.

- "The World of Intranet, Extranet and Portal Technologies," by International Legal Technology Association – Type in keywords "emerging technology trends" in the search engine
- "Technology Opens New Ways to Market," by Larry Bodine – Type in keywords "emerging technology trends" in the search engine
- "E-Business Evolving - What Are the Hot Topics from the E-Merging Marketplace?" by ALA – Type in keywords "emerging technology trends" in the search engine

- "Peg the Right Technology Tools," by James P. Mittenthal – Type in keywords "technology trends" in the search engine

On the Web

- American Bar Association, "ABA Legal Technology Resource Center Helping Lawyers Solve the Technology Puzzle" – www.abanet.org/tech/ltrc
- *Law.com*, "Legal Technology" – www.law.com/jsp/ltm/index.jsp
- *Law.com*, "E-Discovery Trends of 2006" – www.law.com/special/supplement/edd/trends06.shtml
- Small Business Trends, "Top Legal Technology Trends for 2006" – www.smallbiztrends.com/2005/12/top-legal-technology-trends-for-2006.html
- LogicForce Consulting LLC, "Technology Trends in 2006" – www.logicforce.com/Publications/trends2006.html

On the Shelf

The following titles are available for purchase or download through many online retailers, including www.amazon.com.

- *The Lawyer's Guide to Adobe Acrobat, Second Edition*, by David L. Masters
- *Wharton on Managing Emerging Technologies*, by George S. Day, Paul J. H. Schoemaker and Robert E. Gunther
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