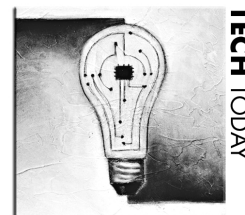


Techtrends

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New York Lawyers Lead Way In Taking Technology to Court



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The move toward using technology in the courtroom is gaining momentum around the country, especially in New York.

The federal court system is engaged in the largest building boom of its history,¹ and New York state is installing technology into its courtrooms at a steady pace.

Court-owned technology is already in place in Manhattan at 40 Centre Street, 60 Centre Street, 100 Centre Street, 500 Pearl Street, and 1 Bowling Green, as well as in Brooklyn, the Bronx, Queens, Long Island, Syracuse, Albany, Canton, Binghamton, Rochester, Buffalo and White Plains. The Eastern District courthouse now under construction in Brooklyn also will contain a number of high-tech courtrooms.

But the latest trend involves the increasing number of attorneys who are bringing technology with them to court. In growing numbers, lawyers are arranging for temporary installations of technology into traditional courtrooms.

Driving this trend is the continued

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evolution of computers into the practice of law as well as the increasing realization by trial lawyers that the use of technology and analytical graphics affects jurors.

Out of the Dark Place

The future may be a dark place for those who have not yet considered bringing technology to the courtroom. One of two scenarios is likely to present itself, thereby pushing many into the realm of the high-tech courtroom.

First, you may find yourself in front of a judge who either presides over all her cases in a high-tech courtroom or takes advantage of court technology or a high-tech courtroom that is otherwise available.

Another common scenario is receiving notification by opposing counsel that they intend to use trial technology. Such notice is typically given no sooner than a month before trial, if at all. You will need to consider whether opposing counsel's use of technology will put him at an advantage with the trier of fact. Empirical data and post-verdict interviews with jurors and judges indicate that it does.

Different levels of technology are available. Some courtrooms have nothing more than audio systems and/or devices such as VCRs, PCs, and cassette players.

Others have document cameras, projectors and other display devices controlled by a technology podium where

the media players, switches and distribution amplifiers send signals to the various display devices.

The display devices typically include 15-inch, flat-panel monitors, a projection screen, and, in larger installations, plasma monitors. Input devices usually consist of a VCR, document camera and audio players. A computer can easily be added.

A Recent Case

During a recent construction design case in Manhattan Supreme Court, we made the case for technology.

Although the courthouse owns and maintains its own technology, it was unavailable during this particular trial. Given the nature of the case and the evidence to be displayed — including numerous documents, animations and videotaped deposition testimony — we decided that the use of technology was important in presenting complex, technical construction issues to the jury.

Aside from all of the display devices and inputs we brought into the courtroom on a temporary basis, we took advantage of the court's integration of wireless communications for accessing the Web and printing locally.

This was the first trial in which this technology — provided by Courtroom Connect in conjunction with the court — was used. It enabled us to communicate

imperceptibly with other trial team members via instant messaging, allowed us to order additional documents and graphics from our support team with instant delivery, and gave us the ability to stream the trial transcript in real time to the war room back at the firm for witness preparation and the next day's events.

In post-verdict interviews, jurors commented on the use of the digital presentation of documents, demonstratives and animations indicating that it definitely helped them understand the issues in the case. The jury returned a significant verdict in our favor.

Brian DiGiovanna, who manages the court technology at 60 Centre Street — one of the nation's first courthouses to incorporate trial technology on a permanent basis — attests to the effectiveness of new technology.

"The use of trial technology at any level definitely impacts jurors' understanding of the case when properly presented, and typically results in a faster, better-organized trial which has a positive impact on judges' dockets," he says. "It also allows for the transcript to be sent in real time to the judge's and counsels' laptops. ... Regardless of whether the technology is installed permanently or just for the duration of a particular trial, we've discovered that the impact on jurors is the same."

In a recent RICO and fraud case held in the Eastern District's Islip courthouse, Jerry Bernstein of Holland & Knight decided to bring technology to a traditional courtroom because of the complexity of the evidence.

He obtained flat-panel monitors for counsel, the witness and the judge, and two 42-inch plasma screens for the jury. He had graphics prepared, both boards and PowerPoint, to illustrate the complex relationships and contracts at the heart of

his case.

As a final step, Mr. Bernstein relied on a trial technician to bring up the demonstratives in sync with his oral presentation.

"This enabled me to focus on the details of the case while building a rapport with jurors," said Mr. Bernstein. "This proved very effective as I found out in post-verdict interviews. Jurors expressed their gratitude for the technology because it sped up the process and the graphics helped them comprehend the intertwined relationships between the parties and the detailed



agreements and contracts."

In preparing the technology installation, the presiding judge was contacted to determine his comfort level with the proposed floor plan.

"We covered all the bases and received compensatory and punitive damages in excess of \$8 million", Mr. Bernstein noted.

Nowhere is the benefit of technology more important than at the newly constructed high-tech courtroom in the U.S. District Court for the Southern District of Illinois in East St. Louis.

The courtroom was completed early last year, and the first case presented there involved a criminal fraud matter. Given the absence of notice requirements in federal criminal cases, the defense needed to be prepared to call up exhibits as they were introduced by the prosecution.

Edwards & Angell partners Harold Ruvoldt and Cathy Flemming represented a defendant in the case. With more than 1.8 million pages of documents produced during discovery and more than 100 hours of videotaped testimony, managing the information without technology would have been next to impossible, particularly given the circumstances.

"This was a very hard-fought case and because the defense had all their materials digitized, it enabled them to get hold of their exhibits quickly, especially considering the fact that they weren't sure who was testifying and when," said the judge who presided over the case. "The trial length was shortened ... by several weeks. This was a three-month trial and three to four weeks were saved due to the technology."

Mr. Ruvoldt said of his experience during the trial, "I'm a strong supporter of the use of technology and we, as a firm, have incorporated it into the way we prepare and present cases.

"It is the only cost effective and efficient way to manage major litigation," he said. "This case was a particularly volatile, contentious case that could not have been properly defended without the use of technology. As disadvantaged as we were, we would have been overwhelmed otherwise."

(1) *Courting the Virtual: The Structure and Function of the Federal Courthouse, Justiceweb Collaboratory, www.judgeline.com, National Center for State Courts.*

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