

The Future of Case Management Software

Case Management (or Practice Management) software makers have seen a rash of mergers and consolidations at all levels in the last several years. To list some of the most notable: Elite time and billing systems acquired the high-end Law Manager program; West acquired ProLaw; Legal Files acquired Interface; RealLegal has acquired several programs including e-binder and Practice Manager. In addition, other programs that have not gone through an actual acquisition have set up integrated links to provide easy access to information in one program from another, either through an import/export routine or a "hot link." Thus the Summation litigation support program has set up links with CaseMap, Trial Director and Sanction II; TimeMatters has an integration/marketing relation with Lexis/Nexis that provides direct access to Lexis/Nexis from within TimeMatters as well as an agreement with Dell to market TimeMatters. Amicus Attorney has a deal with Gateway to sell a "legal" package including Amicus and TimeSlips. Finally, the number of "hot link" integrations has increased: QuickBooks, under pressure from Microsoft Money, released an API (Application Programming Interface) to enable other programs to transfer time and billing data to it. A number of programs have set up

links with the Worldox document management program. Most recently, Amicus Attorney has announced a document assembly module based on GhostFill (a competitor to the dominant HotDocs). And this list is far from complete.

Why is this happening and what are the implications for the future of these products?

The trend of the software industry, following Microsoft's lead, is for programs to grow ever larger and incorporate more and more features through mergers and acquisitions, if not in-house development. People want to be able to deal with a single program, no matter how bloated, rather than manage several smaller utility programs, even if the functionality provided by constituent elements of the "main" program is inferior to that provided by the specific utilities. "Ease of use" is a mantra that has come to dominate the software industry even when it produces what has been termed a "disease of use."

Software makers increasingly try to take charge of the desktop so that users access all other programs and functionality from within the single main program. The core rationality is clear: it is convenient to be able to say "fax (or email) this document" from within a word processor rather than be forced to start from the fax or email program and go out and get the document you wish to fax or email. The problem arises from the fact that a given program integrates only with certain other programs. Thus a case management program integrates only with *certain* time and billing programs. This creates pressure for users to base their software choices on what other programs the software they are considering integrates with. For manufacturers, such links can lead to increased sales if your program "B" is on the short list of programs that integrate with program "A".

Microsoft, with its deep pockets, has everyone else scrambling to keep up with its control of the desktop. Since most case management companies are relatively small, they simply do not have the resources to add entire new program elements (e-mail, document management, document assem-

bly) to their core program, or if they do, these elements are frequently stripped down with a lesser functionality. It therefore makes sense for software companies to set up privileged links to leverage the superior functionality of existing programs devoted to doing one thing well. This in turn can lead to mergers and acquisitions.

This trend is likely to proceed at an accelerated pace along two paths, each with advantages and disadvantages.

The first model is the fully integrated, monolithic program. ProLaw is the primary example of this type. The main advantage to this model is that since the code is all controlled by the same company, integration is likely to be faster, more seamless and less problematic than with "linked" products. Microsoft has frequently been accused of making use of undocumented functionality in Windows to integrate with Word and Internet Explorer better than what can be achieved by outside companies (this was one of the elements in its conviction for anti-trust violations). The main disadvantage is that you are paying for pieces you may not need, or where an "outside" program might provide superior functionality. If the program partly fulfills your needs, will you want to spend more money on a dedicated program to provide the missing elements?

Mergers and acquisitions that produce a single "integrated" program can have serious drawbacks in that one is never quite certain what will happen to the "acquired" company or at a minimum to certain features of it. It is almost a truism that when a press release says "marketing has shown that..." you know you are about to lose one of your favorite features or find it transformed to the point of being unrecognizable. The spate of mergers and acquisitions is part and parcel of the industry-wide trend of "dumbing down" software.

The second model involves a series of "linked" products in which each one does what it does best, but links to the other products. The advantage of this model is that to a large extent you can select what products you want to use. The disadvantage is that even within the available products the "link" may be slow or otherwise limited or unreliable. This model

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About This Newsletter

Heckman Consulting is a systems integration firm specializing in the legal market. John Heckman has 20 years experience in the legal community and is featured as a "Top Tier Technologist" on www.lawcommerce.com. This newsletter is published periodically as a service to our clients and others. For back issues go to www.heckmanco.com.

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also tends to lead to a lot of finger-pointing when the time comes to troubleshoot a problem. However, when the links are done well, it also leverages the superior functionality of the component pieces.

In some cases, links to other programs can provide “multiplier effects.” Thus for example TimeMatters’ link with the Worldox document management system provides a “multiplier” for its conflict checking module (as does its own more limited document management system). Normally, conflict checking is only as good as the data that has been entered into the program and thus is extremely limited since a large amount of data normally resides outside the given program. However, the TimeMatters conflict check also examines the entire document store, thus dramatically increasing its effectiveness. Programs such as Amicus Attorney, which also links with Worldox, do not do this and their conflict checking routines are correspondingly less effective.

What consequences does this have for you in evaluating various products for purchase? This will depend on your preferences in terms of the basic model of the software. For programs based on the “all-in-one” model, look for “holes” – aspects of the program that are either weak or non-existent. Will these become a problem in the future? For programs that privilege links with other software, how good are the links (some links are known to be somewhat flaky) and again, what aspects

are weak or have links that are overly restrictive?

Let us take two examples: if you want basic document management features but are unwilling to spend the money for a full-featured program such as Worldox, you might be better off with TimeMatters, since it has a simplified document management system built in (Amicus does not). On the other hand, if you need to track deadlines based on court rules, you might be better off with Amicus Attorney, which integrates with industry-leading CompuLaw (TimeMatters does not).

Hard choices have to be made when you want conflicting sets of features not all of which are offered by a single program.

It is somewhat unclear whether “all-in-one” programs or those based on the link model will prevail – the chances are that both models will continue to exist, since both offer advantages. But it *is* clear that software makers who do not offer expanded links with other programs will be increasingly marginalized and may disappear entirely. ■

Can Word 2002 Breach Attorney-Client Privilege?

One of the new features offered by Word 2002 (“XP”) is that when a document crashes, a screen pops up offering to send the document and other information to Microsoft for analysis. This may seem like a nice feature, but it has some problematic aspects for law firms.

Say you are working on a document covered by attorney-client privilege and Word crashes. Without thinking, you click OK to send the document to Microsoft.

Since we can presume that Microsoft has not signed an explicit non-disclosure agreement with your firm, you have now revealed the contents of the document to a third party. Does this breach attorney-client privilege (leaving aside for the moment the question of how anyone would ever be able to prove that you had done so)?

Or, could it be argued that Microsoft here is an “agent” similar to a secretary or paralegal employed by your firm? One attorney I spoke with who specializes in intellectual property issues said “the ‘agent’ view might prevail, but I wouldn’t want to try to litigate that side of the issue.”

To be on the safe side, firms adopting Word 2002 would be well-advised to adopt a policy of not sending documents to Microsoft for analysis. ■

Heckman Web Site

Heckman Consulting now has a web site, at www.heckmanco.com. We have included all our back newsletters, nearly five years now. Other items of interest include a draft e-mail policy and e-mail disclaimer. It also includes the slide show from John Heckman’s March 2002 CLE presentation for the Connecticut Bar Association. The site provides a partial client list for Heckman Consulting as well as a description of our services and some of the main products we support. ■

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