

Chapter 2 -Hardware and Software

Software Purchase Guidelines

Focus on the work, not the software. As you review software to use in your practice, choose software that will enable you to continue to practice law as you wish, but digitally. As a tool, software should be user friendly in the sense that the basic work techniques that one uses to practice law and prepare cases is merely duplicated on a computer. Also, the software interface is a personal choice and the ease of use of the interface is very important. Unfortunately, most software is not designed for the individual preferences of lawyers and the unique characteristics of the documents and materials we deal with as lawyers. Software technicians do not understand the “lawyering process”. For example, Microsoft Access™ is a database that can be customized to handle abstracts of document records. That’s fine, but what do I do about depositions and the documents attached to them as exhibits? Do I summarize the entire deposition and enter the testimony in the database along with the documentary information? Or do I import the deposition into Microsoft Word™ and search for key terms of a witness’s testimony? Then I will have two programs and need two different reports to analyze my case. How do I remember that I am using one, two or more programs on a particular case?

Until recently software has always been developed as standalone applications. Word processing programs did not share data with spreadsheet programs and vice versa. This obviously created additional work for the user since his real life needs required the use of both programs. The software companies are now moving away from a technology centered and more on a human centered approach. A human centered approach focuses on the needs of the user in his everyday work environment.

The lawyer is generally not interested in a particular feature of the software but instead how is it applied to the practice of law to give him a competitive edge in representing his clients. If you want to be able to cut portions of a deposition and transfer the testimony to a digest file along with the automatic transfer of the witness name, volume number and accurate page and line number then ensure the software can do this. Many full text programs cannot. The vendors are generally interested in demonstrating features and not legal functions to the attorney because they have many diverse markets to focus on or just do not understand your needs.

The implementation of technology requires selection of specific software of which there are many choices. The evaluation and analysis of software is a continuing, difficult and time-consuming process. Advertisements and salesman assertions may not live up to their claims which can cause untold anguish as one attempts to implement technology in the firm.

Suggested steps for purchasing software:

- Determine the specific legal function you wish to automate;
- Find out what software and features are available;
- Determine what the staff wants and what features are important to them;
- Have a small representative group be available for testing the software;
- Request a demo or evaluation copy of the software;
- Test drive full versions of 2 or 3 different products;
- Determine the cost to purchase, install, implement, train, upgrade and support;
- Check references;
- Select the software;
- Manage the transition; and
- Install, implement and train.

Some key considerations in selecting software are the following:

- What is the background and commitment of the technology company?
- Which firm employees will be required to use the software?
- Is the new software worth the changeover and retraining of the staff?
- Is the software scalable?
- Can you add on new users?
- Is it networkable?
- Is the software data format proprietary?
- If so, why and can it be converted easily to other data formats to use in other programs?
- Can the program be integrated with other existing programs?
- Can the data be shared with other programs easily?
- Is it truly user friendly and easy to use?
- Do you personally like the interface?
- Is their security for only specific users to see data?
- Do I know others that have used the software and are they satisfied?
- Is the documentation clear and understandable?
- Is their quality on-line tutorials or other training materials?
- What do the other staff members think about the software usability and features?
- Is it easy to setup, learn and does it use standard Windows commands?
- What is the estimated learning curve?
- What are the support policies and how easy is it to get assistance?
- Is the software warranted to do what the vendor claims, if not what are your remedies?
- Can I get a full-featured demo of the software to use on a standalone machine for a period of time?

- What is the per user cost on a standalone and a network version?
 - How does the software fit into the long-term strategy of the firm?
 - Will free upgrades be covered for 3, 6, 9 months or longer?
 - Will they provide quality references?
 - Does it support multiple platforms such as DOS, Windows 95/98™ and Macintosh™?
-
- Will it handle the size of your case?
 - Finally, use your good judgment as with any business decision.

Steps to acquiring Hardware and Software from an Integrated Systems Vendor.

1. Issue a Request for proposal (RFP). This essentially invites bids from vendors tailored to your specifications. It should include requests for pricing, financing, warranties, and ownership rights.
2. Specifications and Implementation. The contract should include detailed system specifications. Legal counsel should review it. The implementation section should include timelines, personnel assigned to project, and the scope of their authority.
3. Status reports and meetings. Weekly meetings should be held with all key personnel to ensure that the timelines are being followed. Meetings should continue until it is installed, tested and operating in a live environment.
4. Staffing. Ensure that the key vendor personnel stay during the entire installation period.
5. Install by module or the entire system. Will it be easier to make a complete changeover, or should the software and hardware be installed in module?
6. Test, test and retest. Ensure that a viable test with an appropriate number of records is conducted. The vendor's representative should be present during the test. Before final acceptance, ensure it is operating as nearly as possible under projected conditions. If you will have 300,000 database records with images, make sure that a test is done using that many records and images before final acceptance.
7. Warranties. Insert a well-defined warranty clause into the contract. What is the length of the warranty? Is it parts only or parts and labor?
8. Remedies for Breach. The remedies for a breach of contract must be practical. Time requirements for correction of the problem should be included.
9. Limitation of liability. Generally limits a vendor's responsibility to the price of the software or hardware.
10. Ownership of the system. Ownership rights of the system should be clearly spelled out. This is especially true regarding creation of web sites, since there are oftentimes original graphics included in the project.
11. 3rd Party Rights Infringement. The contract should address the issue of a possible 3rd party asserting rights to any part of the project such as software or graphics.
12. Confidentiality. Include a confidentiality clause to ensure that the vendor does not disclose trade secrets or business practices of your firm.
13. Price and Payment. There are several options, but generally payments are tied to completion of certain parts of the project. The final payment should be after the system is tested and accepted.
14. Post Installation Support. Set out in detail how system failure will be handled during the

warranty period. What is the acceptable response and downtime? What happens if the first level of technical support cannot solve the problem?

15. Maintenance Contract. Negotiate the maintenance contract while you are negotiating the purchase and installation contract. This is when your negotiating leverage is the strongest. Some of the issues to consider are commencement date, options to extend, price increases, support details – response time, days of the week, problem resolution, on-site support, and maintenance for prior hardware and software components. **Software Rental**

One important trend that will continue to proliferate is the “rental” of software applications over the Internet. An ASP, an acronym that stands for Application Service Provider, is one of the most discussed concepts in the connected Internet environment. Simply stated, an ASP is a technology provider company that provides a software or service “application” through the Internet directly to your computer. Instead of the software or service application residing on your computer or network, it resides on a “mainframe” computer at a remote location, and you connect to the software application or service through the Internet. An ASP develops application software and data and rents it to you directly or to another company that in turn rents the application to you.

See also, Chapter 3, *ASP* (Application Service Provider).

Conclusion

The software products need to reflect the way lawyers think not the way a vendor wants them to think. Software should be easily customizable to enable a lawyer to use the software in the manner in which he or she practices law. Any new product or service in the future - and this applies to software for the legal profession - should be able to be used anytime, anywhere, and be customizable.

The software industry is maturing, which generally results in software being more robust and reliable. Companies that have a proven track record want to maintain their buyers' loyalty and generally have reliable products. Support is getting better and upgrades are being provided on a regular basis. Though this does not lend itself to innovative products, the larger companies are purchasing the smaller companies with innovative ideas. Also, we will continue to see alliances, partnerships and other relationship deals to ensure strong integrated products for customers. As always, be aware of small software companies without a proven track record.