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The Other Document Assembly Systems—Part 1 of 2

By Seth G. Rowland, Esq.

INTRODUCTION

It has been over a decade since I first set my eyes on a category of computerized automation software now known as document assembly software. This category has been dominated for a number of years by HotDocs, sold by LexisNexis through its Certified Independent Consultants network and GhostFill, sold by GhostFill Technologies, Inc. through its consultant network.

DESKTOP DELIVERY SYSTEMS

Both HotDocs and GhostFill have served as platforms for delivering automated templates to the desktops of tens of thousands of attorneys in areas of litigation, estate planning, court filings, contracting, lending, and real property transfers. As a consultant certified in both products, I have played a role in bringing some of these products to market, including the development of Wealth Transfer Planning (HotDocs), Drafting Wills & Trust Agreements (GhostFill), and Nebraska Probate System V (GhostFill).

These products require installation of a "fat client" on each desktop — in other words, you must physically install the software on each machine that needs to access the templates. Given the right configuration, you can update these applications via the Web, but that requires local maintenance and support. Using remote access technology, such as GoToAssist, you can maintain them off-site at reduced cost, but the developer of the templates must support these systems on multiple operating systems across multiple network environments — a daunting task.

THE CONVENTIONAL WISDOM ON ONLINE DRAFTING SYSTEMS

At the present time, conventional wisdom states that lawyers wishing to protect their work product and protect their confidential and privileged client data remain unwilling to use Web-based document assembly systems. The perceived risk of waiver of privilege and breach of security has kept and continues to keep many lawyers from using online systems. The other, less discussed reason lies in the perception of lawyers that their clients will place less value on work product generated as part of an automated drafting system.

As is often the case, the conventional wisdom is wrong. With respect to security, you can make online systems as secure as desktop-based systems. By using the extensive audit trails in online systems, and active-directory and group security, these systems give the administrator a great amount of control over who can access what and when. Moreover, these online systems protect the rights of the "Author" of the content. Content is published to the server in a form such that the end user cannot access either the templates or the template logic.

Hosted document assembly systems can provide a great degree of user-access control at a fractional cost. DocEngine offers a hosted HotDocs Online solution. Exari and Ixio offer a hosted solution option. In a hosted environment, the hosting company will maintain and support the software. The authors have a secure login with which they can upload templates and set the access privileges of trusted users. The end users can log into the system and see only those templates and interviews they are authorized to use, as well as those documents and answer sets that they may have created.

Competitive pressures in the practice of law have dovetailed with the increased sophistication of online systems to produce truly first-rate documents.

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In fact, it has been reported by industry experts that the quality of litigation pleadings generated by pro-se litigants and Legal Aide lawyers with one online system, was superior to that of pleadings generated by their much higher-paid colleagues in the bar.

PEOPLE MULTIPLIERS — THE NEW MEASURE FOR ROI

If you didn't believe that document assembly had a high Return on Investment ("ROI") you would not have read this far. However, few other people really understand how high the ROI is on document assembly. When perceived as a mere software purchase with incidental installation and training, document assembly investment seems both costly and highly disruptive.

The online document assembly systems reviewed in this article start at $12,000 and range upwards to $200,000. The upward range practically matches the cost of hiring a new associate (when you factor in salary, benefits, office space, and secretarial overhead).

That is exactly my point. The return on a well implemented document assembly system enables you to EXPAND your legal practice WITHOUT hiring a new associate attorney. You can double, triple, and quadruple your existing volume of business without hiring ANY more attorneys. The software industry calls this PEOPLE MULTIPLIERS.

The people multiplier on a well implemented online document assembly system is between 2 and 5, which means the same person can handle 2 to 5 times the amount of work as they handled prior to the implementation of such a system.
By replacing attorneys with paralegals, the People Multiplier can increase. Paralegals are well suited to the rule-based constraints and guidance built into an online document assembly system. A team of 10-15 paralegals, using an expert drafting system and operating under the supervision of two or three attorneys can handle an immense amount of work.
The people multiplier for online systems is actually greater than desktop-based document assembly systems because you can outsource the data-entry and data-validation to your clients, by giving them input into the system, thus making your internal staff even more productive.

You can take your dividend in two ways: (1) reduce staff or risk your current employees spending a lot of time playing Tetris and watching downloads of Desperate Housewives on ABC.com or (2) go out and secure new business from existing clients and new clients to keep your staff from being bored. I far prefer the latter approach.

DIFFERENT APPROACHES TO DOCUMENT ASSEMBLY

For this article, I examined QShift, DealBuilder, Perfectus IPManager and Exari.

These systems are similar in that they all rely on Web servers to host the templates and data, as well as deliver interviews and content to users. However, each system has a different philosophy and approach. The choice of one over the other depends on how you want to practice law and the degree of control and discretion over the assembly process which you wish to endow the authors and the end users of the system. HotDocs Online has not been included in this survey as it has been out for a while and has already received extensive coverage in TechnoLawyer.

In this article, I will not recommend one system over another, but rather focus on the underlying philosophy of each system as to how authors and end users should interact with the particular document assembly system.

Trusted End Users

These systems differ in the degree to which the end user (the one answering the questions to create the document) is a "Trusted User." On one end of the spectrum, QShift assumes the primary user will be an attorney seeking to build document models from a powerful clause-based knowledge management system. In the middle, Exari enables the user to

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preview their document and make changes from the Web viewer. And at the other end, DealBuilder and Perfectus build rule-based systems that constrain the user to a feature-rich interview that results in a finished document.

Scripting the Interview

These systems also differ in the arena of syntax and coding. Developers of all four systems have gone to great lengths to make the markup of documents as easy as possible, and for basic documents, all succeed. However, there remains a fundamental difference in philosophy over whether the interview represented to the end user should be the result of careful scripting and design in a dialog builder or the result of nesting of rules in the document templates.

• QShift, mostly focused on Clause Selection, presents the interview in a single page list of variables, showing only those variables which appear based on the current clause selection.

• IPManager gives the developer perhaps the most extensive scripting controls. Each page of the interview is designed and laid out. Each variable and object on the page has properties associated with it, which includes display conditions.

• Exari assigns the rules at the XML object evel, whether as a paragraph note or a text note. Rules are inherited based on XML dependencies. Variables are assigned to groups. The interview is the sum of the dependencies in the template being assembled, with only relevant variables appearing, nested in the appropriate group.

• DealBuilder eliminates all interview scripting. The interview is a byproduct of the nesting of logic and dependencies in the sum of all templates being assembled. Variables are both part of a group and a page. The actual scripting is entirely the process of a powerful relevance engine that combines template rules and variable properties to determine what is displayed to the end user in the interview.

Workflow and Integration with Document Management Systems

Document creation can seem an isolated process (run the interview and create a document) or part of a workflow (open matter -> client data input -> document creation -> final approval). While you can integrate each of these systems into a workflow, the commitment of the vendors to an out-of-the-box solution varies.

• QShift has no built-in integration. The authoring and assembly process exists entirely separate from the law firm's document management system. Drafts exist entirely inside the QShift manager until finalized, at which time they are exported to Word for management by the law firm's DMS.

• DealBuilder has a powerful transaction manager that manages the data used in the DealBuilder interview, as well as a product called Deal.manager. It produces hooks and links that can pull data from a DMS and push documents into a DMS as many of its clients have done. However these are custom tools that need to be built with an understanding of the application's API.

• Exari, which is more document-centric, manages the XML documents and data in its own document manager while it exists in draft form, but then relies on the user to export the document to Word/RTF or Acrobat/PDF and manage it in its own environment. Custom scripts need to be written with an understanding of the application's API.

• Perfectus has gone the farthest with workflow and integration with Hummingbird and Interwoven/iManage. The close integration remains a central feature of the offering and covers not only document output management, but also management of clauses, templates, interview packages, and EasyInterview answer data.

Template Version Control

Many end users, having realized that documents are the product of templates and answers, have started returning to the interview to "negotiate" final

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documents by changing their answers. But what happens if the template has changed between the time the first draft was created and the second draft was negotiated?

This is where template version control (and the associated rules) can become invaluable. Both DealBuilder and Perfectus include metadata in the outputted document as to the name and version of the underlying template. With both, you can choose to rerun the assembly with the version of the template in place at the time the document was first created or with the current version of the template.

Thin-Client Versus No-Client

One of the chief virtues of a Web server-based document assembly system is the reduced cost of maintaining hundreds of workstations. By centralizing most of the processing onto the server, you eliminate the installation and maintenance cost of servicing hundreds of workstations. DealBuilder, Exari, and Perfectus are zero-footprint solutions and can be run in any Web browser. By contrast, QShift requires the installation of a local fat client and relies on integration with Microsoft Word.

CONCLUSION

In the second part of this article, I will examine each of the product offerings in detail focusing on the strengths of each system.

To Be Continued ...

ABOUT THE AUTHOR

Recovered attorney Seth Rowland was named TechnoLawyer Consultant of the Year in 2002 for his contributions to TechnoLawyer on the subject of document assembly and law practice automation, and more importantly, his service to law firms around the country. He is a nationally known technologist whose company, Basha Systems, has helped many law firms and content providers build document assembly applications for both internal use and for resale. Please feel free to visit his blog for the latest on document assembly or the video tours page to see what such a system can look like. Basha Systems currently offers document assembly consulting services in DealBuilder, Perfectus, GhostFill, and HotDocs.

Contact Seth:
E: sgr@bashasys.com
T: 914-827-9173

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