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A Look Ahead

2008 will see more vendor consolidation, integration with Microsoft and outsourcing

By Christy Burke

It's a brand new year. With that bright and shiny newness is a host of possibilities for what's going to happen in legal technology and electronic discovery in 2008. Which sectors will contract or disappear and which will expand? With all the M&A and consolidation in the vendor market, who will survive, thrive and plummet? Then there's the inevitable question of how many law firms will upgrade to Microsoft Office 2007 and/or Vista this year, and what impact that will have on legal software product and service vendors.

The New York LegalTech Show for 2008 will be held on February 5-7. Its exhibit halls will be brimming with hundreds of vendors, all looking to forge new client relationships, shore up existing ones, and announce flashy new product and service offerings that will hopefully turn heads.

Burke is president of Burke & Co., a business consulting firm in New York. Burke's clients include DiscoverReady, The Sackett Group, Inc. and Levit & James, discussed in the article.

Who are these vendors? Mostly e-discovery contenders, says Andy Adkins, director of the Legal Technology Institute at University of Florida's Levin College of Law. Adkins is a frequent speaker at national legal technology conferences and is a sought-after advisor to new companies looking to enter the market. He predicts, "At New York LegalTech, about 70 percent of the companies will have something to do with e-discovery. Half of them were not around last year, and half of them will not be around next year."

In addition to a multitude of e-discovery companies at the NYLT exhibit hall, there will be the juggernauts such as LexisNexis and Thomson West, whose booth spaces are starting to resemble vast islands of fiberglass signage and heavily-padded carpeting. Both companies gobbled up more technology companies last year and their girth continues to increase.

Recently, however, other companies that are not exactly the usual purchasers are buying legal technology providers. Storage giant Iron Mountain bought e-discovery services company Stratify in October 2007. In December 2007, digital storage firm Seagate Technology purchased e-discovery software vendor Metalincs. Also, major accounting firms such as Deloitte & Touche have now started to horn in on the action, recently acquiring litigation discovery company Barrasso Consulting in early January 2008.

Despite the continual rise of behemoths that threaten to dominate the arena with massive resources and marketing dollars, a core group of independent, privately held companies continues to provide software and services to the legal industry.

One veteran legal software company that has survived and flourished since 1987 is Levit & James, Inc. (www.levitjames.com). Levit & James' main product currently is Best Authority, a product that efficiently enables litigation attorneys and staff to create a Table of Authorities (TOA). The company's strategy for competing with huge companies is simple. According to the company's VP Ian Levit, "We look for areas of the market where big companies are deficient — we target their flanks. Delivering highly reliable and functional software has been the reason for our success, and we stand behind our technology."

Levit predicts that law firms will look for stable products that function properly. He says, "There will be a revolt against buggy software among law firms in 2008, so vendors that create useable, dependable software will have the edge, regardless of the size of their companies."

Another longstanding legal technology denizen is Linda Sackett, president of The Sackett Group, formerly called Legal MacPac (www.legalmacpac.com), which she founded in 1990. Sackett notes that in 2008, many law firms will be deciding whether to consolidate vendors in efforts to reduce the

sheer number of different providers they're using. In reaction to this, the larger vendor conglomerates are trying to "own" the legal desktop. Sackett admits that there's always the concern that a company like Lexis will swallow up a competitive product. However, Sackett says that companies like hers have the advantage of maintaining focus, which companies with unwieldy product loads can lose sight of.

Sackett says, "When you juggle multiple products, sometimes you miss the details. If a vendor gets acquired, the product doesn't automatically get better. When a company has 10 products, they have to manage support and R&D for all 10. Invariably, a few of those products will be hotter and will get most of the attention, and the other products can suffer."

Adkins agrees with Sackett that focus is important. He believes, however, that three additional keys to survival for legal technology vendors are stability, marketing and integration. "Integration with Office and Outlook is definitely crucial. If you're in litigation, you must be compatible with Condordance, Summation and CaseMap. Look at the market you're going after and integrate with products in that space. For example, if you're targeting small and mid-sized law firms, integrate with WORLDOX, which leads in that market — conserve your resources." Adkins suggests that all evidence points to the fact that users will be looking for a turnkey "one-stop" solution whenever possible.

Like it or not, integration with Microsoft products still dictates development of most legal software. Law firms are grappling with whether to upgrade to Office 2007 and Vista immediately or to delay. This holding pattern is giving legal technology companies a chance to prepare for either eventuality. Some vendors are still scrambling to finish their integrations with Office 2007 and support for Vista, which will be essential to their livelihood once their clients start upgrading.

Adkins estimates that about 25 per-

cent of law firms will upgrade this year, at least to Office 2007, if not Vista as well. The new operating system, Vista, is a much riskier undertaking and has received scathing reviews from industry analysts and information technology professionals alike. Try Googleing the phrase "I Hate Vista" and you will get about 28,500 hits. Because of the poor response to Vista, some experts think that Microsoft will "pause" on Vista and will release another OS in the next few years with a different name, which will cause more law firms to take a "wait and see" approach.

As law firm IT people teeter on the edge of their Microsoft decisions, they will certainly be doing their homework in 2008. Sackett's opinion is that "Firms are performing their due diligence for all technology, and they are going to bring vendors in for demos and presentations, including incumbent ones. Vendors are commiserating about this — we all know there's a chance we could all take some of each other's clients at some point."

Preparing for this, Sackett's development team has geared their newest MacPac product (due in April 2008) to look and perform more effectively and efficiently in Office 2007. She says they are encouraging their clients to consider upgrading their MacPac software in their current Office 2003 environment first before rolling out the new Microsoft technology. As Sackett explains, "Deploying and training fundamental new software prior to a migration to Office 2007 offers a big advantage — users learn new tools in their current and comfortable Microsoft environment so there's less of a 'culture shock' when the firm upgrades. The migration to Office 2007 training can then be focused on the differences in the Microsoft suite, not on document workflow processes and related technologies."

No sector of the market is growing faster than e-discovery. New vendors are still emerging and existing vendors are being acquired, some by legal-oriented companies and others by large accounting, technology, storage and consulting firms. In an effort to provide a "one-

stop" solution, some companies are expanding their internal capabilities, while others are choosing to specialize and become experts at one part of the process. Also, some law firms continue to build out their own internal resources for e-discovery, which crowds the field even more.

Steve Harber is president and co-founder of DiscoverReady LLC, (www.discoverready.com), which outsources the document review process for Fortune 500 corporate counsel. Harber founded the company three years ago with CEO Jim Wagner and the company has doubled its sales each year. Harber says the survivors in the traditional e-discovery space are going to be driven toward efficiency and cost-cutting at every stage of the process. Document review is generally the largest cost in any litigation, and he predicts that reducing those costs will be a major priority for both in-house counsel and their outside law firms in 2008. In addition to using U.S.-based providers for these services, corporations are also evaluating whether to offshore document review projects to India, the Philippines and other nations.

According to Harber, "In e-discovery, legal teams want to know how they can use technology to collect, cull and filter unimportant data so their reviews will have a higher percentage of *relevant* data. Collection software allows you to better target for what you're gathering, so you might be able to collect 10 gigs instead of 50. What you don't review saves the client money, so technologies that stop duplicate and non-responsive data from getting through create enormous savings." DiscoverReady has processes which further reduce the amount of data to be reviewed — segregating spam and company announcement e-mails and nonrelevant data, which can materially reduce a document population that was slated for review.

Harber predicts that alternative pricing structures for document review will become more popular in 2008. Traditionally, law firms have billed corporate clients hourly for associates, staff

attorneys and contract lawyers doing document review. This has led to bloated invoices, so corporations are cracking down on this practice in an effort to gain more control over spiraling legal costs. In 2005, DiscoverReady began “cost-per-unit” pricing for document review — they charge their clients a flat rate per document. This way, clients can accurately predict the budget for litigation review and the vendor is highly motivat-

ed to execute the review quickly. Recently, other vendors have released other “cost per page” pricing options for e-discovery projects, providing evidence that cost-per-unit pricing is becoming a new trend.

Both law firms and technology vendors are already navigating through early 2008’s rapidly evolving environment. Vendor consolidation through mergers and acquisitions, integration with pace-

setting Microsoft, outsourcing considerations, and mandates for increased efficiency and cost-cutting are all at the forefront this year. Fortunately, though, even with all the movement and shifting in the industry that is likely to continue throughout 2008, law firms still seek vendors with the same values they have traditionally held: focus on functionality, stability, competitive cost and attention to client service. ■