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SEMIANNUAL GUIDE TO EXPERT WITNESSES

Crossing Borders

Los Angeles lawyer Jeff Dasteel and Natalia de la Parra Ferreiro discuss the risks that foreign attorneys face when representing clients in arbitrations in California **page 18**

How to Use an iPad to Manage and Present Trial Exhibits

IN ONE FORM OR ANOTHER, technology has permeated and improved virtually every aspect of both my personal and my professional life. Until recently, however, I had not yet had an opportunity to experience what happens when technology does the same with trial practice.

In a recent case, opposing counsel hired a trial presentation vendor. If you are thinking Elmo, which I did when opposing counsel first proposed the idea, you can imagine my surprise when I found out that the vendor would be bringing 10 computer monitors into the conference room where the matter was being heard—one for the judge, another for the witness, and the six lawyers in the room would share the rest.

For what purpose? All the trial exhibits—and there were over 2,000—had been imaged and loaded into a software program on opposing counsel's laptop computer. Whenever he wanted to examine a witness about a particular document, his associate would call up the document on the laptop and it instantaneously appeared on the monitors in front of everyone. Then, at his direction, she would manipulate the exhibit—highlighting key language, blowing up small but critical text, or electronically displaying the exhibit next to another for comparison—so as to complement and emphasize the lawyer's examination of the witness. Contrary to my expectations, it was not distracting. Instead, it was effective and sped the examination along smoothly.

So, of course, I had to master this technique myself. Opposing counsel was using Trial Director software on a Windows-based laptop, but, after some quick research, I decided to try an application called TrialPad for the iPad (version 3.0.11). It worked like a charm. So, here is what you need to know.

Capabilities. As far as I could tell, the TrialPad app had virtually the same capabilities as the competing software used by opposing counsel. For any given exhibit, I could zoom in on all or part of the document, highlight, underline, or circle parts of it, create a cutout that popped out of the screen at the viewer, or even use my finger to create a laser pointer on the screen to direct the viewer's attention. I could also display two different exhibits side by side.

Display Flexibility. My vendor's setup tethered the iPad to the monitors with a cable. This was not problematic for us, but it may pose logistical issues depending upon the room configuration. If tethering is a problem, it may be possible to attain greater flexibility by utilizing an Apple TV and a Wi-Fi network to take advantage of the iPad's native wireless display capabilities. The Apple TV serves as an intermediary between the iPad and the display by routing the data in real time over the Wi-Fi network. With this alternate setup, you can move about the room while manipulating documents live on screen.

Ease of Use. The functions were easy and intuitive to use—just like the iPhone or iPad in general—all at the touch of a finger and with-

out the nuisance of repeated mouse clicks. Further, thanks to its flash memory and efficient operating system, the iPad has the benefit of being always on, so it is ready to use in the blink of an eye. Compare that to the multiminute boot-up we are all accustomed to with the PC. Even launching apps on the iPad typically happens in mere seconds instead of the tortoiselike launch of its counterparts.

While, at times, the display on the monitors lagged, my understanding is that the lag is a function not of the application but instead of the connection, which in my case was VGA rather than HDMI. Neither the app nor the iPad ever crashed or had any fatal errors dur-

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ing trial, unlike opposing counsel's Windows-based laptop. In the rare event of a crash, relaunching the app and returning to where you left off takes seconds, in contrast to the cumbersome, time-consuming, and therefore frustrating crashes experienced on a laptop. In my experience, iPad app crashes, besides being rare, are less likely to result in data loss than is the case with a laptop. I also appreciated the lightweight nature of the iPad when I was carrying it to and from trial along with several heavy boxes.

Cost. The application costs only $89.99. In addition, we used an iPad 4 with 128 gigabytes of memory and a VGA adapter that also contained a power cable input, so the device could be simultaneously plugged in for power and connected to the monitors. The vendor charged the parties a collective total of $1,000 per week for the setup, rental, and takedown of the 10 computer monitors.

Dependency on Internet Connection. There are other iPad trial apps in which the trial exhibits are stored in the cloud and accessed and displayed via an Internet connection to that cloud-based database. I was reluctant to use those applications because I was told that the Wi-Fi Internet connection at my trial's location was not reliable. With TrialPad for iPad, in contrast, the trial exhibits are loaded onto the iPad itself and accessed and displayed in the application without the need for an Internet connection. Thus, the location's unreliable con-

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nection was not a problem. It is worth noting, however, that in order to load the trial exhibits onto the iPad in the first place, we used an Internet connection from our office computers to upload the exhibits to a Dropbox account and then we used the iPad's Internet connection at a location with more reliable Wi-Fi-to download the exhibits from Dropbox to the iPad.

Limitations. The content of the exhibits is not searchable via the application. Even though the documents that we had loaded were, in their native form, OCR-searchable PDF files, the TrialPad application did not have a way to search the content of the exhibits, only the file names.

To correct this issue, we additionally loaded all the exhibits into a free iPad application called Documents by Readdle, which does feature content searching as one of its main functions. Although Documents could not display and manipulate the exhibits for presentation purposes as TrialPad does, it proved a useful backup application for searching content to locate a trial exhibit.

Transcripts. I also used the iPad to display written deposition transcripts electronically on the same bank of computer monitors for impeachment and other purposes. However, the application I used for this purpose was not TrialPad but TranscriptPad (version 1.5). TranscriptPad, which uses text, rather than PDF, files of deposition transcripts, allows a user to run key word searches within one or more transcript files in order to locate and then display the desired testimony. The testimony can also be highlighted or flagged; otherwise, the application is fairly limited in the options offered for manipulating what is displayed. The transcript can also be set to automatically scroll downward on the screen at a predetermined speed so that large portions of text can be read by everyone at once.

Because the input is an unformatted text file, the display lacks the look and feel of an original deposition transcript. In order to show the original transcript in all of its formatted glory, you can use a PDF image of the transcript and display it using TrialPad just as you would display a trial exhibit. However, because TrialPad does not allow a file to be searched for content, it is necessary to know in advance the pages of the transcript that you plan to display. My trial did not feature any videotaped deposition testimony and therefore I cannot offer any advice on features relating to displaying media files.

The bottom line is that whatever we needed to be able to do, there seemed to be an application for it, and each one was easy to use. My experience was wholeheartedly positive, and I encourage attorneys to check out the iPad as an excellent option for trial presentation. ∎