Legal XML and e-filing – The Australian focus VSCL and AIJA Joint Conference

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Sandra Potter is an independent consultant in the areas of legal technology, litigation support and document management. As co-convener of the practice and procedures focus group of the Victorian Society for Computers and the Law, Sandra co-convened the above conference with Anne Wallace, Deputy Executive Director of the AIJA.

Introduction

The development of common standards for electronic information is becoming increasingly important as the legal profession and courts move towards technologies such as electronic filing.

Both the Victorian Society of Computers and the Law (VSCL) and the Australia Institute of Judicial Administration (AIJA) are active in the education and the dissemination of information with respect to standards and see this as a way to achieve the adoption of XML within the legal industry. In November 2001, the VSCL and AIJA held a two-day seminar on Legal XML as the next step on this path to widespread XML adoption.

What is XML?

XML (Extensible Markup Language) is a flexible way to create common information formats and share both the format and the data on the World Wide Web, intranets and elsewhere.

Developing a common standard

The development of common standards allows electronic information to be shared between computers. If legal documents such as judgments, transcripts and court filed documents are produced in a manner that is electronically consistent, these documents, and related indices, can be used at all stages of the process, from discovery through to the ultimate appeal.

If legal information producers and publishers do not adopt common standards, those wanting to use judgments or transcripts in electronic form need to either process these documents manually or write purpose specific programs for each new format that is encountered. This adds considerable expense to the court process.

With an increasing number of courts and legislative departments publishing electronically, the need for standards to ensure accuracy and integrity is now urgent. As courts move towards the introduction of systems of electronic filing, the need for standards will further increase.

Since lawyers use information from documents over and over again e.g. name of the court, date of the hearing or case number, the use of legal XML will allow this information to be reviewed and analyzed in powerful new ways.

By separating structure and content from presentation, the same XML source document can be written once and displayed in a variety of ways on a computer monitor. This would allow, for example the information that is captured in different jurisdictions, which is essentially the same, to be presented in accordance with a specific court's requirements.

The use of commonly agreed sets of legal tags will allow data to be shared across jurisdictions. Without common agreement about these legal tags, the likely result would be many different tags for the same information. For example, <CourtFiling>, <COURT_FILING>, <filing>, are all different and incompatible tags in XML, but they convey a similar meaning in a legal environment. Incompatible tags mean that different software applications cannot "talk" to each other.[1]

The Conference

The topics for the conference included both technical and non-technical issues around XML and e-filing and included:

- Legal XML – who is and should be using it, what is can be used for and why it should be applied in legal practice;
- Court XML; and
- Electronic Court Filing Policy.

The Council of Chief Justices recently agreed to support the development of standards and as a demonstration of this support the Chief Justice of the Supreme Court of Victoria, Chief Justice John Harber Phillips AC, opened the conference.

In his opening His Honour promoted a co-operative, informed approach as to the use of tools such as XML. He also acknowledged that the development of standards/protocols is not something that one sector of the legal system can undertake in isolation.

Day One

The first of the two days was a non-technical day and covered a number of topics at a level that everyone could follow. Topics included:

- "What is XML?". XML was defined in laypersons terms by Winchel 'Todd' Vincent III. the founder of the international standards effort Legal XML (For further reference visit: http://www.legalxml.org). Todd also spoke on "Electronic Court Filing Policy", having been involved in this area since the inception with Georgia State's Electronic Court Filing Project, as part of the Georgia State project.

- Stephen Foley of LiveNote gave two presentations being "Why non-technical staff should concern themselves with XML" and also "Example of how XML could be used with Transcript". Stephen has worked for the last 20 years in developing software applications for the legal profession and has a strong interest in XML and its inherent qualities to provide a conduit for data exchange between applications.

- Jamie Wodetzki of Speedlegal presented a session on "A day in the life of Tomorrow's Lawyer". Jamie was well placed to present this part of the program having been a lawyer in one of Melbourne's top tier firms prior to founding Speedlegal, a software company that develops web based document assembly and knowledge sharing tools for the legal market.

- Sandra Potter presented an "Overview of e-filing in Australia". This session set most participants at ease as they realised that most jurisdictions around Australia were at similar preliminary stages of the overwhelming process of implementing e-filing.

- Giles Nunis, who has 16 years experience in court administration, gave a presentation on "Practical use of XML in e-filing". Giles of Coram Solutions has also held senior positions within the Ministry of Justice including the Executive Officer Supreme Court of Western Australia and the Director Information Services.

- Following along the theme of e-filing, Peter Stephenson from the Criminal Justice Enhancement Program (CJEP project) provided interesting insight and overview of "The future impact of XML: the CJEP experience in Victoria".

- Bill Hall of Tenix spoke of "How Melbourne is contributing to the contracts standards effort". Bill has worked in various documentation and documentation systems

development and management roles since 1987 and is currently Documentation Systems Specialist in the new cross-divisional Strategy and Development Group at Tenix.

- To finish the non technical day of the conference Michelle Mahoney, who heads an Australia-wide team as the Director of the Mallesons Stephen Jaques Applied Legal Technology group, gave a comprehensive overview of the law firm's interpretation of "What future impact XML will have on the Australian Legal Industry".

Day Two

Day two delivered a more technical, and detailed explanation of XML and how it could and is being used within the Australian Legal Industry.

- Tim Arnold Moore of RMIT gave an excellent overview of "XML Standards Organisations and Resources, XML family of standards and tools and XML Vocabulary". Tim is a researcher in this area and focused on information retrieval and document management, particularly as this applies to legislation.

- An "In-depth Presentation on W3C XML 1.0 Specification" was delivered by Winchel 'Todd' Vincent III who, as an active member of the American Bar Associates' Information Security Committee, participates in the joint Internet Engineering Task Force (IETF) and World Wide Web Consortium XML-Signature Workgroup. Further information can be obtained at (http://www.w3.org/Signature/).

- Dr. Paul Martin of LiveNote has researched and consulted on Web-based information exchange with a focus on XML. Dr Martin provided a presentation on "DTD and XML Schemas", with a particular focus on its use in relation to transcript.

- With over nine years experience in software development, and including 2 years of experience in using XML and XSL in the design, development and customization of the Ringtail software, Richard Antill provided an indepth understanding and expertise in the topics of "Microsoft XML Parser" and "XSL examples of simple code".

- "Building Client Facing Systems using XML and Web Standards" was presented by Jason Harrop of Speedlegal. Prior to joining Speedlegal, Jason was a consultant with IBM Global Services Australia, where he specialised in helping IBM's customers with business and technical issues in e-business.

- Greg Kirk of CSC presented an in-depth view on "Judgements and XML – the WA experience" focusing on the work he is currently undertaking for the Western Australian Department of Justice in the development of XML standards. Greg is also working in conjunction with the Supreme Court of Western Australia to develop an XML Schema for Judgments.

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The issues surrounding the use of XML in the legal industry and e-filing will increasingly raise discussion and require education within our profession Organisations such as the VSCL and AIJA will continue to provide a valuable forum for such discussions and to this end, all the papers from the conference can be found on both the VSCL and AIJA websites (www.vscl.org.au and www.aija.org.au respectively).

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1   Legal XML Information Sheet