

2010: The Year of the iPad?*

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In April 2010 Apple released the iPad. Other technology producers have announced upcoming releases of tablet computers. This article discusses how the iPad may serve the needs of the legal community and potentially affect law libraries.

¶1 According to the subtitle for the film *2010*, this is The Year We Make Contact.¹ In reality, continuing technological developments have facilitated contact and communication for years, and this year's hottest technological development may well be the tablet computer. In fact, some have designated 2010 as The Year of the Tablet.² The April 2010 release of Apple's iPad³ created quite a stir, with demand exceeding anticipated levels and causing Apple to delay launch of the iPad internationally.⁴

¶2 Apart from the hype, the question that may be most relevant to law librarians is whether the iPad will prove useful to the legal community. However, the appropriate question may not be if the iPad will be useful to the legal community, but to which specific users in the legal community might the iPad be appealing and useful?⁵

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1. 2010 (Metro-Goldwyn-Mayer 1984). For those of you who may not be familiar with science fiction films, *2010* is the sequel to *2001: A Space Odyssey* and is based on Arthur C. Clarke's novel *2010: Odyssey Two* (1982).

2. Larry N. Zimmerman, *2010—Year of the Tablet?*, J. KAN. B. ASS'N, Feb. 2010, at 18, 18.

3. The iPad is a touch-screen tablet computer, roughly the size of a magazine, with three models that connect to the Internet strictly over Wi-Fi . . . and three that use a combination of Wi-Fi and AT&T's 3G wireless . . .

The iPad runs the same software found on Apple's popular iPhone and iPod Touch. Apple calls this software the iPhone OS, and it's generally regarded as one of the most successful operating systems designed for use with touch-screen devices. Unlike conventional computer OS software, designed around the mouse and the keyboard, the iPhone OS responds only to touch input and is generally capable of running only one application at a time.

Donald Bell, *Apple iPad Hands-On Review*, CNET REVIEWS (Apr. 2, 2010), http://reviews.cnet.com/8301-31747_7-20001505-243.html.

4. Apple Media Advisory (Apr. 14, 2010), http://www.apple.com/pr/library/2010/04/14advisory_ipad.html.

5. Dennis Kennedy & Tom Mighell, iPad: Gadget or Game Changer, *podcast available at* <http://legaltalknetwork.com/podcasts/kennedy-mighell-report/2010/02/the-ipad-gadget-or-game-changer> (Feb. 2, 2010).

¶3 There has been some recent ridicule of members of the Supreme Court for their failure to become familiar with technology.⁶ Perhaps U.S. Supreme Court Justices will not be first adopters of the iPad. However, some state appellate courts might be, given their already demonstrated willingness to adopt new technology. For example, the Louisiana Supreme Court already uses tablet PCs with functions similar to that of the iPad. The tablet PCs allow the justices “to have email, note-taking, and instant messaging abilities As a result, the justices communicate in real-time fashion with their respective staffs during oral argument, thereby having access to legal research tools and input from staff members pertinent to questions the justices pose”⁷ Additionally, the introduction of digital podiums allows the presentation of digital exhibits that can be viewed by the justices on their tablet PCs.⁸

¶4 So, if courts have already adopted and integrated tablet PCs into their work, what is the hype about the iPad? Perhaps it is not simply the nature of the iPad, but also the timing of its release that will influence the iPad’s success. The release of the iPad coincided with the near accomplishment of a number of foundational necessities for making tablet computing a success. In the past, while lawyers could imagine a number of uses for tablets—for example, in conducting client interviews, depositions, due diligence work, trials, negotiations, and closings⁹—it was felt that much still remained to be done:

Tablet PCs aren’t as lightweight or as intuitive as real yellow pads and pens. And they aren’t as pleasant to read as printed books and magazines (although “smart paper” is emerging from research labs). Plus, legal technology vendors have yet to adjust their software for optimal performance in tablet modes.

Handwriting recognition, like voice recognition, still makes too many mistakes. While 80-plus percent accuracy may be amazing, it’s also woefully inadequate. Network bandwidth and security features are not yet ideal. We need more Wi-Fi hot spots—and unquestioned data integrity.¹⁰

¶5 Another writer mentioned similar difficulties: “The once-popular Apple Newton’s handwriting recognition was so prone to mangling words that it became the butt of a running joke in *Doonesbury*,” and while improvements have been made, handwriting and voice recognition technology “still makes enough errors that you’ll want a keyboard for any work more intensive than note-taking.”¹¹ Further, it was noted that the price of the tablet was more expensive than most “top-of-the-line laptops” at the cost of about \$1699.¹²

6. Supreme Court Still Apparently Unfamiliar with Texting and Call Waiting, posting of Eric Lipman to Law.com Legal Blog Watch, http://legalblogwatch.typepad.com/legal_blog_watch/2010/04/supreme-court-still-apparently-unfamiliar-with-texting-and-call-waiting.html (Apr. 20, 2010, 10:40 A.M.).

7. Roger A. Hanson, *American State Appellate Court Technology Diffusion*, 7 J. APP. PRAC. & PROCESS 259, 282 (2005).

8. *Id.* at 283.

9. Marc Lauritsen, *Smart Pads on the Wireless Web*, 29 LAW PRAC. MGMT., Nov.–Dec. 2003, at 30, 32.

10. *Id.* at 32, 34.

11. Jason Krause, *Tablet Talk: New PCs Read Handwriting Better, But Garbles Are Still on the Menu*, A.B.A. J., May 2003, at 63, 63.

12. *Id.* at 69.

¶6 While some of these concerns remain, there has been significant progress in the past few years. The release of the Sony Reader and Amazon's e-reader, the Kindle, with e-ink technology, marked a substantial step in improving reading on electronic devices.¹³ While the iPad's failure to use e-ink¹⁴ or Pixel Qi¹⁵ technology and its use of a light-emitting liquid crystal display have been grounds for criticism by some, who say that reading on the iPad may cause eye strain and affect sleep habits,¹⁶ it does display color and allow inclusion of multimedia components in electronically published books. And the increased ease of browsing portions of a title, as attorneys often do, should also be a plus for the iPad.¹⁷

¶7 If legal publishers don't make legal publications available for reading in a format accessible via such devices, the question of whether the legal community likes or dislikes the iPad as a reading device becomes less relevant. While some "law-specific app titles . . . (including portable law dictionaries, penal codes, rules of procedure and evidence and so on)" are already available for the iPhone and iPod Touch, they will likely be more easily used on the iPad's bigger screen.¹⁸ However, given current digital rights management issues, the proprietary nature of platforms for electronic publishing, and the lack of e-publishing standards, it is unclear whether legal publishers will find it profitable to adapt additional titles to varying electronic formats.¹⁹ Notwithstanding these issues, there is some indication that major legal information providers are acknowledging the need to provide information in a format accessible on at least some e-readers. For example, West publications available as documents via WestlawNext can now be delivered to the Kindle.²⁰

¶8 While noting that delivery to the Kindle is "not (yet) the iPad," it is recognized that West's delivery to the Kindle "might be a start down a 'trail of bread-cumbs' (to quote TR CEO Tom Glocer) that leads to a moder[n]ized user interface

13. See David Pogue, *Books Pop Up, Wirelessly*, N.Y. TIMES, Nov. 22, 2007, at C1.

14. "Until a few weeks ago, the biggest worry for E Ink . . . was the two dozen or so e-paper competitors looking to loosen its grip on the market. Then Steve Jobs announced Apple's iPad tablet, which uses a standard LCD display that sacrifices e-paper's readability and zero-power modes but offers higher refresh rates and full color." R. Colin Johnson, *E-Books: Battle Brews over Display Alternatives*, ELECTRONIC ENGINEERING TIMES (Feb. 22, 2010), <http://www.eetimes.com/showArticle.jhtml;jsessionid=5FLSYEYAIJDQ1GHRSKH4ATMY32JVN?articleID=223000151>.

15. Pixel Qi technology has been dubbed as the "e-ink killer" by some. E-Ink Is Dead, Pixel Qi's Amazing Transflective LCD Just Killed It, posting of Matt Buchanan to Gizmodo, <http://gizmodo.com/5443895/e+ink-is-dead-pixel-qis-amazing-transflective-lcd-just-killed-it> (Jan. 8, 2010). The use of an LCD display by the iPad has been cited as part of the reason that the iPad will not make the Kindle obsolete. The iPad Is Not a Kindle Killer—Blame the Display, posting of Tekla Perry to Tech Talk Blog, <http://spectrum.ieee.org/tech-talk/computing/hardware/the-ipad-is-not-a-kindle-killer-blame-the-display> (Jan. 27, 2010).

16. Reading on iPad Before Bed Can Affect Sleep Habits, posting of Mark Milian to L.A. Times Technology Blog, <http://latimesblogs.latimes.com/technology/2010/04/ipad-kindle-ebook-sleep.html> (Apr. 24, 2010, 7:00 A.M.).

17. See Could Legal Publishing Survive on iPad Only Books?, posting of Greg Lambert to 3 Geeks and a Law Blog, <http://www.geeklawblog.com/2010/04/could-legal-publishing-survive-on-ipad.html> (Apr. 5, 2010, 2:25 P.M.).

18. Alan Cohen, *iHelp for Lawyers*, AM. LAW., Mar. 2010, at 49, 49.

19. Could Legal Publishing Survive on iPad Only Books?, *supra* note 17.

20. Read WestlawNext Documents Anywhere—Send Them to Your Amazon Kindle, NEXT.NOTES (Apr. 2010), <http://west.thomson.com/signup/newsletters/next-notes/2010-apr/article4.aspx>.

for electronic legal resources.”²¹ Similarly, the American Bar Association has released a free iPad application for the *ABA Journal*:

The app features breaking legal news updated continuously every business day, all of the monthly magazine’s in-depth articles, and the latest blawgs featured in the *Journal*’s directory of more than 2,500 legal blogs.

....

“[W]hat lawyers want is words, words and more words, delivered as fast as news breaks. That’s what our app provides, using the big, beautiful iPad screen to maximum effect,” [ABA *Journal* Editor and Publisher Edward] Adams said.²²

¶9 In the past, inadequate productivity tools for tablets was perhaps the most influential factor affecting their lack of adoption by the legal community. Discussion regarding the iPad indicates similar concerns about the productivity of the iPad.²³ It has been suggested that the “true potential for the device comes from its ability to run apps.”²⁴ Applications such as Penultimate²⁵ have been suggested as responses to the complaint that tablets can’t be used as effective note-taking devices.²⁶ Initial reactions to the use of iPhone applications not specifically adapted for the iPad have included concern that they do not take advantage of iPad features designed to improve productivity, such as the larger iPad virtual keyboard.²⁷ Further, while some iPad applications have been made available at no cost, it appears that most applications cost more than applications for the iPhone or iPod Touch.²⁸ Still, the iPad is not without potential as a productivity tool for the legal community.

¶10 The lack of a multitasking capability on the iPad has been one issue adversely affecting productivity on the iPad.²⁹ However, a post on Legal iPad, a blog

21. WestlawNext Embraces the Kindle Platform, posting of Joe Hodnicki to Law Librarian Blog, http://lawprofessors.typepad.com/law_librarian_blog/2010/04/westlawnext-embraces-the-kindle.html (Apr. 16, 2010).

22. *First Legal News App Released for Apple’s iPad*, posting to ABA Now, <http://www.abanow.org/2010/04/first-legal-news-app-released-for-apples-ipad> (Apr. 17, 2010).

23. “Some, including me, have described the iPad as much more of a content consumption device than a content creation device.” Dennis Kennedy, *A Legal iPad: Could Apple’s Device Replace That Old Tablet of Yellow Paper?*, A.B.A. J., Apr. 2010, at 35, 35. Another commentator notes:

With all the talk about Apple’s iPad, I’m noticing two trends. First, the device is polarizing opinions Very few seem to be “on the fence” about the iPad. But there’s a common thread among all—folks are wondering how (or if) an iPad fits into their daily workflow, and that gets me to my second trend. People are looking to the iPad for more than content consumption—which it is excellent for—they’re trying to be productive with it.

Forget iWorks—I’m Editing Google Docs on the iPad, posting of Kevin Tofel to JKOnThRun, <http://jkontherun.com/2010/04/08/ipad-google-docs-editing> (Apr. 8, 2010, 8:30 A.M. CDT).

24. Kennedy, *supra* note 23, at 35.

25. Penultimate is an application that allows you to draw on the screen of iPhone OS devices. See Penultimate for iPhone, iPod Touch, and iPad on the iTunes App Store, <http://itunes.apple.com/app/penultimate/id354098826> (last visited May 14, 2010).

26. This Time for Real: The iPad as a Legal Pad for Attorneys, posting to TabletLegal, <http://tabletlegal.com/time-real-ipad-legal-pad-attorneys> (Apr. 19, 2010).

27. Legal Apps for the iPad: Initial Reactions, posting to Tablet Legal, <http://tabletlegal.com/legal-apps-ipad-initial-reactions> (Apr. 12, 2010) [hereinafter Legal Apps for the iPad].

28. Over One Third of iPad-Only Apps Are Games (And More Stats), posting of Robin Wauters to TechCrunch, <http://techcrunch.com/2010/04/07/distimo-ipad-stats> (Apr. 7, 2010).

29. “The ability to run multiple processes is critical as a work device. I typically have 6–10 programs or windows open on my desktop. It isn’t unreasonable to conceive of needing a few different

focused on iPad use by lawyers and business professionals, and published by Nicole Black, suggests that the Desktop iPad application will permit multitasking “to a limited extent. While in the app you work in a split screen environment that allows you to surf the web and send an email, among other things. . . . It’s better than nothing for now—at least until true multi-tasking for the iPad becomes available in the fall.”³⁰

¶11 Josh Barrett’s TabletLegal blog has noted and reviewed a number of applications that might be helpful to those using iPads in the legal community. For example, Barrett suggests that

[Logmein Ignition and] a wifi or 3G connection allows you to control your home or office computer from wherever you are as though you are sitting in front of it. With the larger screen and more powerful processor of the iPad, it essentially becomes [a] very usable rendition of a full PC or Mac. This app was usable in a pinch on the iPhone, but it is a powerful tool on the iPad.³¹

¶12 I often utilize my law school’s VPN (Virtual Private Network) on my laptop because there is a significant improvement in the functionality of Outlook compared to the webmail client. Another plus of using a VPN connection is that I don’t have to authenticate through the proxy server to connect to databases accessed via IP recognition. As a result, I can see how the use of applications on the iPad that allow similar connectivity would result in increased productivity. And the iPad is certainly more portable than my laptop.

¶13 Cloud computing can also help serve the productivity needs of those in the legal community using iPads. “Cloud computing” refers to “data and software applications that are housed in cyberspace instead of residing on servers or PCs physically in the law firm. Cloud computing permits law firm users to access data and applications through any Internet-connected device”³² While there are security and confidentiality concerns associated with cloud computing, its advantages, particularly in cost savings, have led firms to begin using software (or storage) as a service (SaaS) functions available via the cloud.³³ In fact, it is the iPad’s potential to access and use “the cloud” for productivity and even e-discovery³⁴ that has Dennis Kennedy, a noted author on the topic of legal technology, predicting

applications running to use the iPad as a true working device.” iPad Missing Features? A Lawyer’s View, posting to Tablet Legal, <http://tabletlegal.com/ipad-missing-features-a-lawyers-view> (Feb. 2, 2010).

30. New iPad App Allows Simplistic Multi-Tasking, posting to Legal iPad, <http://legal-ipad.com/post/543051236/new-ipad-app-allows-simplistic-multi-tasking> (Apr. 23, 2010).

31. Legal Apps for the iPad, *supra* note 27.

32. David Narkiewicz, Legal Tech Forecast: Cloudy, With Only a Chance of Purchasing New Software, PA. LAW., Mar./Apr. 2010, at 56, 56.

33. *Id.* Dennis Kennedy notes that “[a]ccording to the ABA’s 2009 *Legal Technology Survey Report*, 16 percent of respondents have used online software services, compared with 13 percent in the 2008 survey.” Dennis Kennedy, *Working in the Cloud: Tips on Success with Online Software Services*, A.B.A. J., Aug. 2009, at 31, 31–32.

34. An April Fool’s parody produced by Clearwell Systems, an enterprise involved in e-discovery management, and available on YouTube at www.youtube.com/watch?v=9hzl7hoKBfs, humorously makes the point that the iPad’s function as a support tool for e-discovery may have been exaggerated; however, other sources have also noted the potential of the iPad for e-discovery. See, e.g., Kennedy & Mighell, *supra* note 5.

that the iPad has an eighty percent chance of becoming a “game changer” for the legal community (although his colleague, Tom Mighell, gave it only a twenty-five percent chance).³⁵

¶14 If cloud computing is indeed the future, iPads must have a robust capability to access the cloud. Improved bandwidth and wireless network availability were two of the additional developments critics believed necessary to make tablet computing viable. Wi-Fi access has certainly become more available in recent years. But while restaurants, airports, and even some municipalities now offer free wireless access, “[u]niversally available Wi-Fi is still a pipedream . . .”³⁶ Additionally, there appear to still be some issues with iPad wireless connectivity under certain conditions.³⁷ For example, Seton Hall University has embraced the iPad, but recognized that its adoption will create a need for additional bandwidth. This need for network support was one of the factors cited in the decision to substantially increase technology fees.³⁸ However, if Wi-Fi access is not easily established, there is the 3G alternative, and in the future there may be alternatives that will provide even greater data transfer opportunities. As one author writes:

[W]e’re also finally seeing the maturing of wireless broadband so that most lawyers can be connected 24/7. Wireless broadband subscribers grew by 90% in the US in 2009, fueled by both a growth in coverage areas and lower pricing. The price for this wireless service has dropped by 30% and more over the past several years. We are also seeing the increase in WiMax connectivity, although that has been slowed somewhat by the poor economy. WiMax is the next generation in wireless data transfer that promises faster data transfer than current 3G networks.³⁹

However, as several reviewers of the iPad have pointed out, the 3G option and the accompanying monthly plan make the economy of the iPad much more questionable.

¶15 Even if the iPad does catch on with the legal community, how will that affect the law library? Some effects seem evident. Despite the criticisms of the iPad as an e-book reader, the facts that the Kindle reading application is already available for the iPad⁴⁰ and that prominent publishers are working toward making textbooks suitable for the iPad⁴¹ suggest that students will likely develop an even stronger preference and demand for titles that can be viewed on a tablet computer such as the iPad. However, the price of textbooks and students’ inability to sell back electronic versions may have some influence on the popularity of textbooks on the

35. Kennedy & Mighell, *supra* note 5.

36. Larry N. Zimmerman, *So Simple a Lawyer Can Use It*, 79 J. KAN. B. ASS’N, Jan. 2010, at 20, 20.

37. Apple, iPad Issues Connecting to Wi-Fi Networks, <http://support.apple.com/kb/TS3304> (last updated May 6, 2010).

38. Melissa Korn, *iPad Struggles at Some Colleges*, WALL ST. J., Apr. 19, 2010, at B8.

39. Is the Apple iPad the Tipping Point? Practicing Law in the Cloud Goes Mainstream in 2010, posting to Reid My Blog!, <http://reidtrautz.typepad.com/reidmyblog/2010/01/apple-tablet-the-tipping-point.html> (Jan. 26, 2010).

40. Kindle App for iPad Now Live, posting of Michael Grothaus to Tuaw: The Unofficial Apple Weblog, <http://www.tuaw.com/2010/04/02/kindle-app-for-ipad-now-live> (Apr. 2, 2010).

41. Interactive Textbooks Headed to iPad, Report Says, posting of Ian Paul to Today @ PC World, http://www.pcworld.com/article/188427/interactive_textbooks_headed_to_ipad_report_says.html (Feb 3, 2010, 8:59 A.M.).

iPad.⁴² As students become accustomed to using such formatted textbooks, they will predictably desire additional titles in that format when they enter the practice of law. Libraries, both legal and others, have already begun to respond to the demand for e-books. The iPad can do much more than a simple reader, so it is likely to be more popular, and in turn create even more demand for titles in an electronic format.

¶16 Law librarians may also start using the iPad to provide reference assistance. Just as the iPad's portability makes it useful for attorneys working away from the office, it could also be a tool for law librarians providing roving reference.⁴³ Providing reference assistance away from the library desk can be accomplished with greater ease with a highly portable device. Given that many consumers of legal reference assistance may already be familiar with the iPhone and iTouch, they will likely warm quickly to the use of the similar workings of the iPad.

¶17 Further, the iPad could affect librarians by creating a demand for the development of iPad applications to assist patrons and research. While some libraries, primarily public libraries, have dedicated money and resources to developing applications for the iPhone and other devices, there has been some opposition to the continuation of this practice.⁴⁴ Rather, it is recommended that resources be committed to developing "mobile friendly" web sites using HTML5,⁴⁵ which has under some circumstances performed better than Flash.⁴⁶

¶18 Finally, if, as predicted, the iPad creates additional usage of the "cloud," law librarians may be increasingly called upon to assist patrons with cloud computing. As has been noted:

[L]aw librarians are already taking advantage of cloud computing. Law librarians use online applications and data storage to collaborate with colleagues and to provide library services. Many of these tools also fall within the definition of Web 2.0, social software, and probably other terms. But whatever the name, if a tool can be used to help legal researchers access information, law librarians will help them use it.⁴⁷

¶19 In an *ABA Journal* poll, just over thirty percent of the respondents indicated that the iPad "would be a useful tool for my practice" and that they had or planned to buy an iPad.⁴⁸ This survey provides some indication that the iPad

42. *Id.*

43. See *Apple's iPad Introduced, Greeted with Excitement, Derision*, AM. LIBRARIES, Mar. 2010, at 20; *The iPad and the Library*, posting of Ken Fujiuchi to Library Tech Talk, <http://libtechtalk.wordpress.com/2010/04/06/guest-post-the-ipad-and-the-library> (Apr. 6, 2010).

44. *The iPad, Tablets and E-Readers in Libraries: Game Changers or Are They Just Another Mobile Technology?*, posting to Mosio: Mobile Reference + Text Messaging, <http://www.textlibrarian.com/mobileref/the-ipad-tablets-and-other-mobile-technologies-in-libraries> (Jan. 26, 2010).

45. *Stop the App Madness*, posting to Krafty Librarian, <http://kraftylibrarian.com/?p=349> (Jan. 7, 2010, updated Jan. 10, 2010).

46. Donald Melanson, *HTML5 vs. Flash Comparison Finds a Few Surprises, Settles Few Debates*, ENGADGET, Mar. 10, 2010, <http://www.engadget.com/2010/03/10/html5-vs-flash-comparison-finds-a-few-surprises-settles-few-de>.

47. Diane Murley, *Law Libraries in the Cloud*, 101 LAW LIBR. J. 249, 253, 2009 LAW LIBR. J. 15, ¶ 17 (footnotes omitted).

48. Approximately sixteen percent of the respondents indicated they would buy a Windows-based tablet and in excess of fifty percent indicated they would continue to use a PDA and laptop and did not plan to buy an iPad. *ABA Journal Law News Now, Polls*, <http://www.abajournal.com/polls> (poll closed May 4, 2010).

appeals to a significant portion of the U.S. legal community and has the potential to significantly influence the way in which members of the community work. Whether this potential will be realized and whether its realization will be based on use of the device as an e-reader, on development of applications, or on the use of cloud computing capabilities is yet to be seen. Regardless, one thing is certain—law librarians will be there to help patrons use the iPad to meet their information and practice needs.