

Maryland Lawyer

News and analysis of legal matters in Maryland



William McComas

Clouds on the horizon

MAXIMILIAN FRANZ

Maryland law firms are cautiously moving toward the latest trend in outsourcing: Internet-based computing.

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Cloud computing is beginning to gain traction with local lawyers despite broader concerns about the security of storing documents and programs on remote servers.

The practice allows businesses to access files and programs through the Internet (the “cloud”) instead of installing the software onto their own server or individual workstations. Firms can cut costs by paying a monthly fee rather than buying and maintaining hardware or paying licensing fees for

products. For a small firm, the cost savings of not having to own or maintain the server hardware or have an IT person on staff could have a big impact.

It’s a concept many people use without realizing it or knowing its name. Examples include free e-mail services through Google or Hotmail.

And it’s the latest in a line of functions outsourced by law firms, including mailrooms, payroll, custodial staff and litigation support.

Looking into cloud computing is natural in a law firm’s progression to see “whether it’s financially beneficial to move their technology platform from the four walls of their office to a data

center that can handle their information more efficiently,” said Steven Stern, a Baltimore lawyer whose company, **Legal Technology Solutions**, helps firms use technology more effectively.

Like all shifts in technology, there are many naysayers who disfavor cloud computing, which is essentially renting server space from a third party, and others who are early adopters.

“To pacify the people who are sort of the pooh-pooh people on it, I would say, ‘What are we doing now? We’re already outsourcing stuff,” said William McComas, a partner with **Shapiro, Sher, Guinot & Sandler** whose practice focuses on technology.

“What happens if something gets mishandled? Firms are already sort of managing it now,” he said.

Security, speed

Even so, McComas acknowledges that there are reasons to be concerned about shifting e-mail and other documents to the cloud. The major ethical issues — the safety of client data and whether using the cloud will, in any way, waive the attorney-client privilege — need to be discussed, he said, but should not stop firms from moving forward with using remote servers.

McComas came across the same issues in the past. He said in the early 1990s, lawyers were afraid they would be waiving certain privileges by sending out e-mails. He got around the problem by including a line in his engagement letters saying that he was authorized to use the Internet.

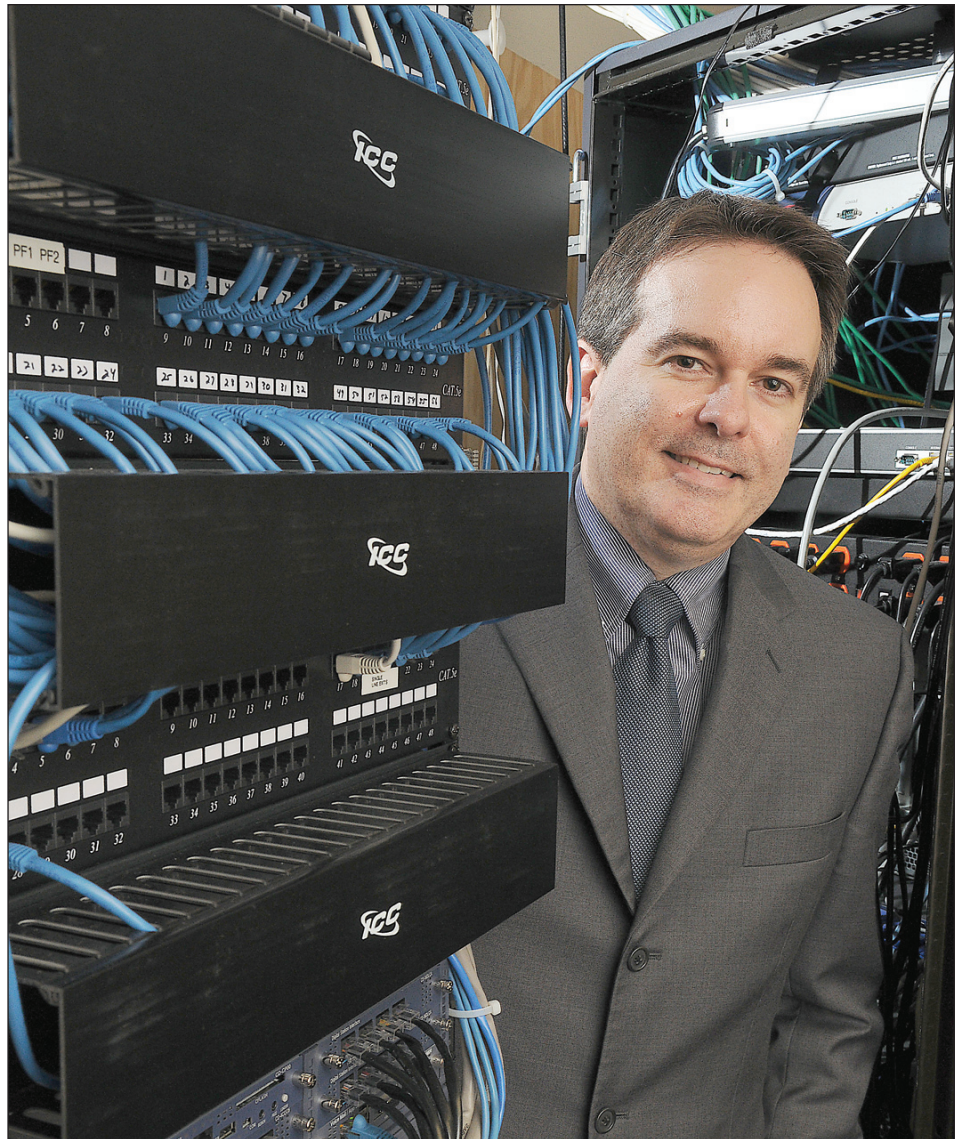
The same should be true until lawyers and clients get comfortable with cloud computing, he said. By disclosing the practice in an engagement letter, the lawyer will get the approval from the client.

In terms of security of client information, McComas said client documents might be better protected on the cloud than on office servers.

“If you put yourself out on the cloud you’ll probably find you have more-professional people handling the files than you would at a firm or anywhere else,” he said. “If you’re using Google Docs or Google Calendar you’ve got Google’s engineers handling it. Who’s better? IT people don’t usually flock to law firms.”

Not everyone agreed.

Brian Moffett, a partner at **Gordon, Feinblatt, Rothman, Hoffberger &**



MAXMILIAN FRANZ

While privacy and security issues are important, Michael Oliver, shown in the server room at Bowie & Jensen, says law firms must also be concerned about the speed of a cloud-based system. ‘If the system doesn’t allocate you enough power, your service is real slow,’ he says.

Hollander LLC in Baltimore, said he could not think of a scenario where the firm would allow a vendor to control its

primary servers.

“We do have a third party maintain our backup servers, but I think it’s a matter of being able to control your information and protect your information especially when that information contains client confidences,” he said.

Others are on the fence. Stern, of Legal Technology Services, said it’s very easy to get a virus on an in-office server or have someone hack into the system. However, he said cloud computing makes client confidentiality a concern.

“Until there’s litigation on this, or until they can codify what your safe harbor is, you have to worry about it,” he said. “A law firm, unlike any other business in America — you have an obligation to your client to keep everything confidential. There’s an expectation of not only privacy, but also security.”

DEFINING THE TERMS

The term “cloud computing” was inspired by the cloud image often used to represent the Internet in flowcharts. It’s a concept that can confuse, but many people use the cloud for personal e-mail or photo storage (think Gmail and Snapfish). Here are some definitions to get you on your way:

Cloud computing: Internet-based computing that moves key services like e-mail, document storage and other software onto servers owned and operated by a third-party vendor. Maintenance and costs can be reduced or simplified.

Partly cloudy: A mix of in-house servers and Internet-based computing.

SAAS: Software as a service. Another term for cloud computing.

Virtualization: A practice that allows a single physical server to divide into multiple virtual servers. This server can operate multiple workloads and applications at once. Offers cost savings and reduced maintenance.

IMPORTANT QUESTIONS TO ASK

What should you ask before going to the cloud? Steven S. Stern, president and CEO of Legal Technology Solutions, has compiled a list of questions adapted from a list offered by the North Carolina Bar Association. Below is a sampling:

- Who owns the data — the lawyer or the vendor? (If you don't pay your bill, will they allow you to get the data back?)
- If the lawyer terminates use of the product, or the service otherwise has a break in continuity, how does the lawyer retrieve the data and what happens to the data hosted by the service provider?
- If the vendor goes out of business, will the lawyer have access to the data and the software or source code?
- Can the lawyer retrieve data off of the servers for his or her own offline backup?
- If the lawyer decides to cancel the subscription, will he or she get the data? Is data supplied in a nonproprietary format compatible with other software?
- How often is the user's data backed up? Does the vendor back up data in multiple data centers in different geographic locations to safeguard against natural disaster?
- If clients have access to shared documents, are they aware of the confidentiality risks of showing the information to others?
- Does the law firm have a backup for shared document software in case something goes wrong, such as an outside server going down?

Michael Schreyer, a founding partner of **Alpert Schreyer LLC**, had concerns about the security of client information when his five-attorney firm started looking into cloud computing, but quickly changed his mind.

"I think the data security issue is looked at the wrong way," he said. "I think there's a data security issue hosting your data on your own server because you don't have the sophistication to provide the security that you would if you were a large firm."

Alpert Schreyer formed out of two other firms this year and has offices in Prince George's and Charles counties, making cloud computing a natural choice.

"We wanted to have one virtual office, if you will," Schreyer said. "We figured out how to do that with telephone services. The next step was to do that with case management software and other resources."

The firm switched over to cloud computing with a company called Legal Workspace just two months ago, so the savings haven't been tallied yet. But as Schreyer ticked down the list of financial benefits — a flexible contract, software that isn't loaded onto each computer, cheaper computer maintenance and having the latest software without paying to upgrade — he said the value could add up.

The savings for **Bowie & Jensen LLC**, a Towson firm with about 20 lawyers thinking about moving its servers to a third-party vendor, could also be significant.

"We're looking into virtualization, which is a big deal," said Michael Oliver, a partner at Bowie & Jensen who prac-

tices law in transactional intellectual property matters and is also the firm's Web coordinator.

If Oliver's firm transitions and does it "right," he said, Bowie & Jensen could reap savings of 30 percent.

One big savings for the firm would be taking Oliver off of computer-maintenance duty, freeing him up to bill for more hours.

Oliver, who was a software programmer before he became a lawyer, has managed the firm's IT system for 15 years. When he started handling IT, the firm had three lawyers, but now he said the job takes up a lot more of his time.

While Oliver has similar concerns as the others about moving the system to a remote location, his biggest concern is speed.

"When you put things up in the cloud-based services, if the system doesn't allocate you enough power your service is real slow," he said.

The firm's outside tech support, which works only with law firms, has told Oliver the lack of speed has been a problem for several law offices. He has "de-virtualized" some firms who moved their systems to the cloud last year because of the speed problem.

Private cloud

Linowes and Blocher LLP, which has about 50 lawyers in its Bethesda and Annapolis offices, is building a "private cloud," in which programs are located on a server in one of their offices but can be accessed by both.

The system will be in its Bethesda office, mostly because Linowes is doing a firm-wide upgrade of its computer systems and it could not get pricing for a



Emily Vaias, technology partner at Linowes and Blocher, says the firm decided to 'take the leap to the cloud' during its systems upgrade.

public cloud system. The plan is to eventually move the servers to a remote location.

"We have folks who want to telecommute and right now we do not have an effective way to do that," said Emily Vaias, the firm's technology partner.

"Because the cloud is probably the future and we're upgrading now, we figured we should get on the cutting edge here and take the leap to do the cloud," she said. "People need to be able to work from home when there's a blizzard, when there's a power outage."