

## The changing face of litigation in Australia

*by Murray Deakin*

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The Federal Court of Australia has this year witnessed the start of one of the largest pieces of corporate litigation ever heard in Australia. The case (known in the media as the *Fairfax case*) is investigating the complex corporate reconstruction of Fairfax (a major Australian newspaper publisher) undertaken during its receivership in 1991.

The case is attracting a high level of interest both within and outside the legal profession not least because the courtroom set up to hear the matter has become a showcase for the latest technology available to support complex litigation.

The hearing commenced in February 1995 and the presiding judge has estimated that if the trial of the case runs its full length, it will last until September 1996, a period of some 18 months. The Fairfax matter has now settled. The estimated duration of the hearing acted as a catalyst for the development and implementation of one of the largest computerised litigation support systems ever seen. The system provides many quite revolutionary facilities within the courtroom, including:

(a) real-time transcript reporting which involves the almost instantaneous transcription of the proceedings, enabling the judge,

the witness and legal representatives of the parties to read the transcript using visual display units located within the courtroom;

- (b) a document image database connected to a multi channel local area network (LAN) which already stores images of well in excess of 10,000 pages of affidavits, exhibits and other documents;
- (c) full text searching of historical and current transcript, pleadings and affidavits together with field and keyword searching of an electronic index of the documents imaged within the database; and
- (d) a network enabling electronic messages to be sent between participants in the litigation and control system for the indexing and reporting of court exhibits and MFI's.

The computer system is assisting the litigants to manage more effectively the massive documentary burden of the case. The hard copy library comprises some 205 lever arch binders containing over 40,000 pages. Transcript for the proceedings is approaching 4,000 pages with 350 documentary exhibits and MFI's.

Minter Ellison, lawyers for two of the players in the litigation, were asked to use the state of the art technology available in their litigation support department and the skills of their document management team to assemble and create the database for the computerised library for the judge and all nine parties. The library of documents which the parties indicated they wished to tender during the proceedings was fully indexed in both a paper and database format.

Of approximately 40 witnesses scheduled to be called, only 5 witnesses had been cross-examined at the time of writing this article. Already the system is using 4 gigabytes of hard disk space located on the file server. As the hearing progresses, it is clear that the computer system will expedite the access and retrieval of information and ultimately assist the judge to locate and compile the information necessary to formulate his decision.

The case marks a new and more technologically oriented approach to large-scale litigation in Australian courtrooms.

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