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Technology strikes — oblivious attorneys stunned

The term “Internet” was first coined in 1974 and referred to a single global system of interconnected computer networks that shared data by packet switching using the standardized Internet Protocol Suite (TCP/IP).

The first TCP/IP network became operational in 1985.

In the mid-1990s, the terms “Internet” and “World Wide Web” became commonplace, with Internet use increasing exponentially during the late 1990s.

The Internet today has an estimated population of 1.5 billion users.

Of course, as I've detailed many times in the past, the legal profession has steadfastly refused to embrace, and in some cases, even acknowledge, technological advances and their effect on both the legal profession and the world at large.

So, it's not surprising that lawyers and judges alike were seemingly taken aback last week upon learning that jurors, mere laypeople, were aware of this strange, newfound technology called the “Internet.”

Even more astounding to the legal profession was that jurors, in the midst of trials, disregarded judicial instructions to avoid obtaining information from outside sources and actually accessed the “Internet” for research using peculiar devices referred to as “smart phones” and “computers.”

In one case last week, an Arkansas court was asked to overturn a \$12.6 million judgment based on allegations that, during the trial, a juror posted eight comments about the trial on Twitter, the microblogging service.

In one, he proclaimed: “I just gave away TWELVE MILLION DOLLARS of somebody else's money.”

Similarly, a federal corruption trial in Philadelphia was rudely interrupted by allegations of jurors posting comments to the Internet regarding the proceedings during the trial.

Defense counsel for former Pennsylvania Sen. Vincent J. Fumo moved to halt jury deliberations after information surfaced that a juror had posted comments about the trial to both

Facebook and Twitter. The judge denied the motion after questioning the juror and Fumo ultimately was convicted of the charges against him.

In another case, during a federal drug trial in Florida, a juror admitted to Judge William J. Zloch that he had been conducting research on the Internet regarding the case, in spite of the judge's specific instructions to the contrary. As if that wasn't bad enough, after questioning the entire jury panel, the judge learned that eight other jurors had done the same thing.

A mistrial was declared immediately, ending a trial that was entering its eighth week. The defendant's attorney, Peter Raban, expressed his disbelief regarding the unexpected turn of events: “We were stunned. ... It's the first time modern technology struck us in that fashion, and it hit us right over the head.”

And thus it came to pass that “modern technology,” in the form of the new-fangled Internet, fell rudely and unexpectedly from the sky, inexplicably landing on the heads of various lawyers, despite the fact that those very same heads were buried, willfully, deep in the sand.

Shortly thereafter, dazed, confused and utterly befuddled lawyers, suffering from concussions, technology-induced stupors and other massive head injuries, wandered around the desert of public opinion, expressing consternation in the face of the perplexing, yet wholly predictable reality that technology existed despite their repeated attempts to ignore it.

To my sadly bewildered, dumbfounded and stunned colleagues, I have only this to offer: “I hate to say it, but I told you so.”

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