



## TECHGEAR



Apple has beefed up its iPod Nano (from \$149) with a video camera, larger display, FM tuner, pedometer, and support for voice memos. The camera captures video at 640 x 480 at up to 30 frames per second.



## WEBLINKS



**FLORENCIA C. RUEDA** of Austin is a sole practitioner whose practice focuses primarily on criminal law, representing clients who have been charged or indicted in state misdemeanor or felony criminal matters. Visit her blog at <http://youraustinelawyer.blogspot.com/>

### Pandora.com

This website is a simple and effective tool to discover new music, based on songs and artists you like. You can create your own personalized free radio station, and the site recommends new songs and artists to enjoy based on your current and past music selections and reviews.

### Google News (<http://news.google.com>)

I use Google News as my homepage and check it like I would a morning newspaper. It allows me to browse current news articles and editorials from all over the world and is updated to the minute in real time.

### HowStuffWorks.com

This site is dedicated to explaining how things work in a wide range of areas including health, money, science, and travel. As an information junkie, I can spend hours on this website and have all my curiosities answered, from learning how one can dive 700 feet in one breath to learning how one performs first aid on a dog.

### GoodReads.com

This site lets you be part of a really large book club with friends all over the world. I get to read reviews and recommendations from friends and discover new books to add to my list.

## Lawyers Should Not Be Wary of Cloud Computing

BY NICOLE BLACK

The complexities of modern law practice are such that managing a law office in the absence of practice management software programs is nothing short of impossible. However, traditional law practice management software, maintained on a local server in your law office, can be expensive, cumbersome to navigate, and prone to annoying glitches that occur so frequently that your IT consultant becomes a permanent fixture.

Law firms can avoid the headaches caused by traditional law practice management software by using the services of any one of a number of companies that provide Software as a Service (SaaS). Taking advantage of SaaS law practice software allows you to focus on the ever-important task of practicing law while the SaaS provider operates, updates, and maintains the software for you.

Among the online services available to attorneys are law practice management systems, document management platforms, secure email networks, digital dictation services, and billing/timekeeping services. These online platforms are attractive, economical, and viable alternatives for law firms of all sizes.

What these various platforms have in common is that the data created and managed by these services is stored off-site, in the “cloud.”

“Cloud computing” is defined at **Webopedia.com** as a “type of computing that is comparable to grid computing that relies on sharing computing resources rather than having local servers or personal devices handle applications. The goal of cloud computing is to apply traditional supercomputing, or high-performance computing, power (nor-

mally used by military and research facilities) to perform tens of trillions of computations per second in consumer-oriented applications.”

Advantages of cloud computing include lower costs due to reduced overhead, less hassle related to maintaining and upgrading the case management system, and greater flexibility, because a web-based practice management system can be accessed anywhere, at anytime. Offsite data storage, however, has resulted in much speculation among lawyers regarding issues of data security and attorney-client confidentiality.

### INVESTIGATE SECURITY AND BACKUP

The security of your firm’s data is of paramount concern. Security issues to consider include: What type of facility will host the data? How frequently are data backups performed? Is data backed up to more than one server? How secure are the data centers? What types of encryption methods are used? How are passwords stored? Are there redundant power supplies? Where are the servers located? If a natural disaster struck one geographic region, would all data be lost?

Learn how the SaaS provider will handle your confidential data, the portability of the data, and the format in which it will be provided to you should you choose to remove your data from its system. In the unlikely event that a SaaS provider declares bankruptcy, you should ensure that you will retain control and access to your firm’s data.

Your contract with the SaaS provider should address these issues and should include a nondisclosure clause indicating



**NICOLE BLACK** is of counsel to Fiandach and Fiandach in Rochester, N.Y., where she defends DWI matters. She is co-author of the treatise *Criminal Law in New York* and the founder of **lawtechTalk.com**, which educates lawyers on technology issues and provides legal technology consulting.



that all data is the property of the law firm and can be exported in a readable format upon demand.

Another important factor is the level of service. How does the cost and the ease of use provided by your existing practice management system compare with web-based practice management systems?

**MAKE REASONABLE EFFORTS TO ENSURE CONFIDENTIALITY**

Many lawyers who continue to be wary of cloud computing cite attorney-client confidentiality concerns. In my opinion, these concerns should not prevent lawyers from using these services.

Of course an attorney has an obligation to research how a SaaS provider will handle confidential information and should determine how securely the data is stored. However, concerns that third parties will have access to the data as it travels through the “cloud” are downright silly, in my opinion. Third parties have always had access to confidential client information, including process servers, court employees, document processing companies, external copy centers, and legal document delivery services.

Employees of the building in which a law office is located have also had access to confidential files, including the cleaning service and other employees that maintain the premises. And what of summer interns, temporary employees, and contract attorneys?

The employees who manage and have access to computer servers are no different. In order for us to practice law effectively, third parties necessarily must have access to certain files. As long as there are assurances that the company in question will make reasonable efforts to ensure that employees will not access confidential information, that is all that is required.

The New York State Bar Association Committee on Professional Ethics reached a similar conclusion in Opinion 820-2/08/08. The Committee addressed the following issue:

May a lawyer use an e-mail service provider that scans e-mails by computer for keywords and then sends or displays instantaneously (to the side of the e-mails in question) computer-generated advertisements to users of the service based on the e-mail communications?

It reached this conclusion:

Unless the lawyer learns information suggesting that the provider is materially departing from conventional privacy policies or is using the information it obtains by computer scanning of e-mails for a purpose that, unlike computer-generated advertising, puts confidentiality at risk, the use of such e-mail services comports with DR 4-101. ... A lawyer may use an e-mail service provider that conducts computer scans of e-mails

to generate computer advertising, where the e-mails are not reviewed by or provided to other individuals.

In other words, common sense prevails. Lawyers must resist the urge to overreact to emerging technologies. The same confidentiality standards that apply to physical client files should likewise apply to computer-generated data. To conclude otherwise would be to prohibit lawyers from using computers in their law practices — an unrealistic, and quite frankly, ridiculous alternative.

And if you make the leap to cloud computing, who knows? You may just find yourself praising, rather than cursing, newfangled technologies. Now *that* would be a nice change. ☺

**TEXAS CORPORATION SUPPLIES**  
**YOUR RELIABLE SOURCE SINCE 1978!**  
*Your Clients Deserve a Quality Corporate/LLC Kit*  
**Order yours by 1pm ships Today!**

*Silver Eagle Corporate Kit*



**20% TEXAS BAR JOURNAL DISCOUNT FOR NEW ACCOUNTS MUST REQUEST UPON ORDERING.**

**Liberty!**  **Legal**

**www.tcs-libertylegal.com 800-392-3720**  
**sales@tcs-libertylegal.com Fax: 800-441-7134**