

TRANSITION FROM AUDIOTAPES TO DIGITAL TECHNOLOGY  
IN THE FEDERAL IMMIGRATION COURTS

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## **ABSTRACT**

My project topic, transition from audiotapes to digital technology in the Federal Immigration Courts, is a very challenging issue to research. I have been a Court Administrator in the Immigration Courts for the last 6 years and I have watched our courts transition to new technologies relatively smoothly and seen the benefits these transitions have provided. While change in any system is difficult to integrate, our agency is young enough to adjust with minimal conflict. I view the transition to digital recording as a logical next step for our agency.

The focus of this paper is to examine the benefits that could be gained through the transition from analog audio recording to digital audio recording in the Immigration Courts. Further, to discuss significant advantages (ie: greater public access to information regarding cases, reduction in postage costs and storage requirements) that would result in it's incorporation to our process. Admittedly, there are many considerations if this technology were introduced; compatibility and integration with our current system, life cycle of the CD (Compact Disk)/DVD (Digital Versatile Disk) as a record, storage, access to recorded testimony, transmission of recordings for transcription purposes and availability regarding access to the public.

Hopefully, the research provided in this paper will raise the level of interest and knowledge of this technology, identify applications and benefits to our court processing procedures and act as a stepping stone in its adoption into the Immigration Courts. This type of technology has been in practical

use across the nation for more than five years. I conducted extensive research via Internet search engines, held personal interviews with two established companies that produce this technology and seven different courts currently utilizing it. A library search turned up no books currently published on the subject.

The adoption of digital recording in court operations has proven to be very successful. Courts I contacted related both a reduction of staff requirements and reduced storage requirements resulting in cost savings. I was able to conduct a review of several digitally recorded court proceedings and found they provided an instantaneous and clear record with no loss of data due to human error. Retrieval of these hearings was almost instantaneous and user friendly for those who are computer challenged.

The integration of digital recording for Immigration Court proceedings will raise the quality level of recorded proceedings, reduce the “human error factor” that is associated with audio recordings, provide a reliable media for recording, reduce storage costs and space, provide a new feature of note taking for the Judge that will make review of case proceedings for legal research much more efficient and finally reduce the costs associated with transcription services and access of case information to the public.

Hopefully, my paper will play a role in the Immigration Courts adoption of digital technology. I highly recommend this technology be pursued and budgeted for the next fiscal year.

## **INTRODUCTION**

The Executive Office for Immigration Review (EOIR) was created in 1983. Within EOIR is The Office of the Chief Immigration Judge (OCIJ). The immigration courts in the field fall under OCIJ which is headquartered in Falls Church, Virginia and is responsible for the administration, direction, policies, and procedures for the fifty two Immigration Courts around the nation. These courts have a Court Administrator who is responsible for the administrative aspects of running the court. Caseload determines the number of judges and staff for each court. EOIR currently utilizes audio magnetic tape recording for its proceedings in Immigration Courts around the country. This recorder utilizes 4-channel recording and is positioned and operated by the Judge on his/her bench. We currently use either 60 or 90 minute audio cassettes. The court uses 1 to 10 audio cassettes per Immigration case. The problems with audio tape recording are specifically; storage and storage requirements, faulty audio tapes, staff time in retrieval, copying, certifying, mailing, human error through improper settings of recorders ie: speed and channel settings and the review of cassette tapes is both tedious and time consuming.

Cassettes tapes are maintained with the record of proceeding in envelopes attached to the Record. This tends to make the records bulky and unwieldy. When the Judge has completed a case and is now prepared to make a written decision, to review a portion of the hearing he/she must play “roulette” with the tape recorder to locate the section he/she needs to review. Often, cassette tapes of recordings are inoperative and must be manipulated to function properly ie: rewound or tightened (Fig 2),

this is highly frustrating to the Judges and Law clerks trying to conduct legal research. When records are retired to the Federal Record Center the tapes are retired with the written Record. Often the case is appealed and a transcription of these cassette tapes is required or copies of the tape are requested by the public. The process to respond to these requests requires the court to recall the Record from Federal Record Center (if it has been retired), removal of the original cassette tapes, copy each tape on a analog audio tape duplicator, label and attach a certified letter or for appeal processing; the original cassette tapes must be removed from the record, logged and tracked by the appeals clerk, packaged and shipped overnight mail to Falls Church, Virginia where transcription is accomplished through a centralized transcription contract. The cassette tapes and transcripts are then mailed back to the Immigration Court for review and approval of the Judge. Then the transcript is returned to Falls Church, Virginia for further processing. This process is inefficient, antiquated, costly, a duplication of staff effort and does not lend itself to efficient public access. Many times tapes are non-intelligible due to recording equipment being antiquated or improperly set ie: speed and channel settings. The problem of non-intelligible tapes was so great a seven page "Operating Policies and Procedure Memorandum 98-2" for Immigration Court Audio Recording of Proceedings was produced. Audio retrieval with digital technology need not require requests from the Federal records Center, CDs (Compact Disks)/DVDs (Digital Versatile Disk) can be stored on site. A case number could be entered and the user would be instructed to insert a specific CD (Compact Disk)/DVD (Digital Versatile Disk), retrieval is executed in seconds and can then be accessed on any network computer, e-mailed, or downloaded to a disk or cassette. Both companies provide software on the CDRs (Compact Disk Recordable) for transcription and this eliminates the need for special software programs. However, FTR is somewhat proprietary as they place the software on the disks first, you must buy their CDR's (Compact

Disk Recordable) to work with their system. CourtSmart's programming loads the software during recording, making it possible to buy any CDR (Compact Disk Recordable) (at a much reduced price).

The use of digital recording would replace the audio cassette recorder on the Judges bench with a personal computer that records to a centralized computer server. There should be two servers operating to ensure a fully redundant, fail-safe system for court recording and archiving. The use of a centralized server with redundant backup is already integrated into the CourtSmart design, FTR is designed as more of a stand alone system, without redundancy. The use of CDs (Compact Disk) or DVD (Digital Versatile Disk) would be utilized for archiving and backups. A Large capacity hard disk will provide for less frequent archival requirements and reduced storage costs for this type of media. This would drastically reduce the bulk and storage of recording media. CDs (Compact disks) have greater recording capacity - approximately seven hours of proceedings and with higher fidelity and longer shelf life. DVD (Digital Versatile Disk) can hold nearly ten times that, however currently they are more expensive. The retrieval of case recordings could be accessed through the server and therefore not require time-consuming paperwork and delays with requests to the Federal Record Center. The staff time dedicated to copying proceedings for the public or agents of the court could be cut drastically if done on the personal computer, where it can be accomplished in seconds instead of minutes or public access via the Internet could even be a possibility. The mailing of case recordings to the appeals processing unit wouldn't be necessary if they could access the same recording via our existing Local Area Network. The loss of valuable court records due to human error through improper settings of recorders ie: speed and channel settings would be reduced dramatically due to these settings being part of the digital program and the Judge couldn't inadvertently change settings. The Judge/Legal Clerk would just turn on and off the recorder at the beginning and end of each day. The training for this new technology is minimum.

Both companies have user friendly operations, FTR's system displays a computer generated emulation of the analog audio tape recorder (Fig 1) resulting in almost no learning curve. CourtSmart utilizes a simple point and click design. Finally, a review of a digital recording can be optimized through features that allow "log notes" or "annotations" tagged directly to the audio record, this provides a link for the Judge to the recording, during a hearing a Judge can enter notes regarding issues being presented and these notes are time linked to the recording. These notes can be encoded private and only accessed with his/her permission. These notes also "tag" each hearing for future retrieval. The Judge or Law clerk can later review these notes - select a particular issue and the program will play that section of the case within seconds. There is even a search capability to find specific issues in the annotations. During court procedures the Judge has complete control of the system, the Judge can access previous audio and get a playback of the audio recording without ever interrupting or stopping the current recording, the Judge can also go off the record for bench conferences by utilizing a "Mute" button.

Over the last several years, plans for transition to the use of Bar coding records, expansion of Internet/Intranet information and our computer database upgrade from Wang to an IBM emulation have slowly come into evidence. With the growing acceptance and use of new technologies, I feel the natural "next step" is the transition from analog audio recordings to digital recording. This could incorporate - utilizing the bar coding feature as an enhancement, use of the Internet for transmission of digital recordings - reducing postage and clerical time, and finally integration with our existing database to improve legal research. In addition to improving processing systems within each court, I envision greater access of information to the public via Internet applications.

### **REVIEW OF RELEVANT LITERATURE**

Researching this area of technology was a daunting proposal. Although this technology has been in use across the nation for more than five years, only two established companies are producing this technology. I reviewed many articles and books on areas addressing court technology, however none address digital technology as it applies to this paper. These books did provide a good deal of background information and helped to give me a good understanding of the court systems move to electronic technologies, but did not provide any facts for this paper.

I conducted numerous hours of research searching “recording technology” web sites hoping to find digital recording technology designed for use in a Court environment or something close that might lend insight to further research. My searches included but are not limited to the following Internet sites:

- Administrative Office of the U.S. Courts
- Courts of Appeal
- CommuniTech
- Creative Technology
- Digidesign
- Federal Judicial Center
- Forum on the Advancement of Court Technology
- Justice Systems
- Library of Congress
- Microboards Technology, Inc.
- National Center for State Courts
- National Court Recorders Association
- The Federal Judiciary

I also conducted telephonic and in person interviews with representatives from the digital technology field, and representatives from multiple courts either utilizing digital technology or considering its application in their Court, those representatives were:

- Anne Arundel Circuit Court - Robert Wallace, Court Administrator
- Baltimore County Court - Peter Lally, Court Administrator
- Board of Immigration Appeals - Jeffrey Fratter, Clerk of Court
- FTR Ltd.- Steve Townsend, President
- FTR Ltd. - Steve Schmenk, Vice President- Sales and Marketing
- FTR Ltd. - Susan DuVal, Marketing Manager
- Linn County Circuit Court - Judi Baker, Assistant Court Administrator
- Ninth Judicial Court of Florida - Ron Johnson, Orange County ICJIS Coordinator
- Phoenix Bankruptcy Court - Carl Ozols, Systems Manager of Development
  
- Scottsdale Municipal Court - Gene Stout, Court System Integrator

## METHODOLOGY

The methodology utilized for this paper consisted in research gathered from the Internet, interviews, and presentations. I conducted numerous searches of databases to locate web sites addressing digital recording as well as court web sites. Most digital recording sites were directed at the music industry and provided little applicable information. I conducted personal contacts/interviews with my counterparts in the court system whom are currently utilizing this type of technology. I conducted these contacts/interviews using the telephone, email and site visits. I also attended a presentation/demonstration of this type of technology by FTR Ltd., a company producing this technology in my area. The other significant producer of this technology is CourtSmart. I conducted an extensive telephonic interview followed by numerous e-mails and other written documentation was provided. I began my research in early October 1999 and completed it in February 2000. My greatest obstacle in this endeavor was the limited information available due to this being such a new technology.

I anticipate a rapid growth in this information as more and more court systems go to digital technology.

## **FINDINGS**

Although I did exhaustive research in the Library and Internet sites, I found very little information on the use of digital technology as appropriate for a court environment. The best research found was through two companies, FTR, Ltd. and CourtSmart. They are the only established companies with a family of products designed to transition from analog audio recording to digital recording. Digital audio recording technology is currently operating in more than 700 courtrooms and in 13 countries around the world. It is well established and has demonstrated its capabilities.

Interviews with other Court representatives confirmed the system works very well and below are those benefits these courts identified.

The benefits in are many:

- The hardware is non-proprietary
- Compatible with existing word processing programs
- Compatible with existing case database systems
- Can be utilized over a Local or Wide Area Network
- Provides enhanced sound quality & more durable digital media
- Provides immediate and remote access to part or all of a record within seconds
- Reduced storage requirements, including shipping and space
- Provides for simultaneous recording and playback
- Log/Tag notes indexing a record for immediate access to specific issues
- Transcription is more timely and costs are lower (decentralized)
- Duplication can be in either digital or analog cassette tape formats

- Storage is available by individual CD (Compact Disk)/DVD (Digital Versatile Disk) or a server
- There is a small learning curve - one systems displays a computer generated emulation of the audio tape recorder we currently use
- Files can be sent via electronic mail
- Files can be placed on the Internet for public access
- Transcription of digital records - no special equipment or software is required, the CD (Compact Disk) used contains software to make it run on any normal word processing system
- These products are compatible with Bar coding systems to reduce redundant data entry

## **CONCLUSIONS**

The implementation of digital recording across the nation has been rapid and successful. In September 1999, this system was demonstrated for the Court Technology Conference held in Los Angeles. Digital audio recording is currently operating in more than 700 courtrooms and in 13 countries around the world.

Today there are greater and greater demands on courts, but we must continue to meet these goals:

- Access to Justice
- Expedition and Timeliness
- Equality, Fairness and Integrity
- Independence and Accountability
- Public Trust and Confidence

This technology is a perfect venue to accomplish these goals.

The evidence to support that is the transition courts have made over the years to electronic Database/caseload management, Video technology, Fax machines and the Internet “our information highway”. Today with a computer and a modem, the public can access information on almost any subject. We in the Courts have an obligation to provide the public with easy access to Justice. The implementation of digital recording of proceedings provides quick and easy access to any portion of the testimony. The courts should be expeditious and timely in case processing. Digital recording provides for instant access to any portion of a proceeding with only a click of the mouse and duplication is easier and faster than with audio tapes. Approximately 10% of our cases are appealed, this technology could provide shared access to recorded hearings and eliminate the need for costly and timely shipping of analog audio tapes. The public should see equality, fairness and integrity in the Judicial process. This is

integral to the production and preservation of court proceedings and records. Digital recording offers secure storage on durable digital media, higher quality and clarity of audio production, one step recording, and up to seven hours of proceedings can be recorded on a single CD (Compact Disk), reducing the chance of mislabeled or lost tapes. Ten times that on DVD (Digital Versatile Disk). Courts must be independent and accountable. I see this as our opportunity to adapt and respond to change and the needs of the public, this is accomplished through the integration and use of new technologies available that will help to meet the needs of our customers. Finally, an area that can't be overlooked is the need of the Judicial system to instill public trust and confidence. The public must feel confident that the record of their hearing is secure, available, and the application of digital recording will provide a more durable and reliable recording through the use of CD (Compact Disk)/DVD (Digital Versatile Disk) storage.

The implementation of this technology is another step to further enhance our legal and administrative processes. This system could be integrated into our existing systems and allow our organization to receive, store and share information more efficiently while maximizing the productivity of it's Judiciary and staff. I highly support the Immigration Court move forward with the transition from analog audio recordings to digital audio recordings.

#### **WORKS CONSULTED**

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Fig. 1. FTR Gold Recording Panel, Digital Court FTR Gold Recording Software Pamphlet.  
(No date)

Fig. 2. Damaged Analog Audio tape, Immigration Court Phoenix, Arizona. (1/12/00)