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CANADIAN CENTRE FOR COURT TECHNOLOGY  
CENTRE CANADIEN DE TECHNOLOGIE JUDICIAIRE

# **E-FILING CASE STUDIES**

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Updated: November 8<sup>th</sup> 2011

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## EXECUTIVE SUMMARY

The purpose of this paper is to document experiences resulting from electronic filing (e-filing) projects in various court jurisdictions in Canada. E-filing is understood to be the electronic transmission of documents and other court information to and from a court, agency or tribunal (hereafter this paper will refer simply to 'court'). Generally the e-filing process involves integration with a court's case management system and may further involve the storage, cataloguing and retrieval of e-filed documents.

Another component of e-filing is the electronic transmission of documents between parties, whether e-filed with the court or not. Such 'e-service' is not addressed in this document.

This paper covers e-filing projects - either fully implemented, in development or not fully realized - for the following courts: Federal Court, Tax Court of Canada, British Columbia Supreme Court and Provincial Court, British Columbia Court of Appeal, Alberta Court of Appeal, Saskatchewan Court of Appeal, Ontario Superior Court of Justice, and the Competition Tribunal.

Each court project will be described, followed by discussions of the technology behind each project, costs, key documentation resulting from the project, and what was learned from each project. It is hoped that the documentation of this information will serve to enable future e-filing undertakings to benefit from this consolidated knowledge.

## PROJECT DESCRIPTIONS

### 2.1. Federal Court

The Federal Court's e-filing project began in 2001 but did not go live until October 3, 2005. The Court's intent was to work with the private sector to find vendors who would provide e-filing services at a fair cost to litigants and at no cost to the Court and the Registry.

There was no Market Scan or RFP performed. An RFP was deemed not necessary as the Courts Administration Service (CAS; the administrator of the Federal Court) did not pay an e-filing vendor any money. The business model was that any vendor was welcome to come and offer e-filing services to litigants of the Federal Court if certain prerequisites were met (bilingual service, XML "envelope" must validate, etc.). LexisNexis Canada was at the time the only vendor who was willing to work within this model.

The project's first phase allowed for e-filing in Intellectual Property matters, followed by subsequent 3 phases to where all case types in the Court became available for e-filing. The project was not commercialized until August 2006.

The Federal Court E-filing project involved the following key steps:

- Undertake an E-filing needs assessment;
- Join the Legal XML E-Filing Committee to help develop e-filing standards and best practices;
- Network with like-minded individuals throughout North America to discover best practices and lessons learned;
- Find private sector partner(s) who would provide e-filing services at a fair cost to litigants and at no cost to the court and its Registry as there was no funding\* provided for e-filing implementation;
- Work with the e-filing partner(s) to design and develop an external web-based interface for e-filers;
- Begin production of an e-filing system with a single case type (i.e. Intellectual Property).

E-filing in the Federal Court is not mandatory and the Court is not willing at this time to require its litigants to e-file.

## 2.2. Tax Court of Canada

Beginning in March 1999 the Tax Court of Canada put forward requirements for e-filing via the internet, with the goal of providing better service to litigants. No Market Scan or RFP was undertaken. Consultants were retained to implement the solution as an extension of the work done on creating a new case management system for the Tax Court. The web-based e-filing project was completed by August 2001.

E-filing is not mandatory. However, if clients wish to electronically file they may only use the web-based e-filing (as opposed to e-mail). While the Tax Court does accept documents sent by fax and mail in order to provide flexible options to clients, it strongly encourages litigants to e-file through the web. The Tax Court has seen a significant year over year increase in the number of documents that are e-filed.

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\* The Chief Information Officer's Branch of Treasury Board did furnish a small grant to the Court Registry to be used in a special "pathfinder project," to demonstrate the value of common e-filing standards to all federal judicial bodies, and to locate such a standard. An inter-departmental "E-Filing Project Advisory Committee," (EPAC) was established, and a website was commenced as well (<http://epac.fct-cf.gc.ca/>).

### **2.3. British Columbia Supreme Court and Provincial Court**

The result of this project is an external application accessible through the Court Services Online (CSO) website. The project was started in 2005 with no RFP or Market Scan undertaken. It was limited to Supreme Court civil and Provincial Court small claims and involved modifications to the civil case management system to enable processing of electronic documents by Registry staff.

It was implemented in three (3) phases; all phases were completed by Fall 2009:

- Pilot Phase (implement in 6 of 43 locations)
- Phase 1 (implement scanners in 43 locations)
- Phase 2 (implement in remaining 37 locations)

E-filing in this project is optional. There has been some discussion in making Supreme Court civil mandatory, but nothing has been decided to date.

### **2.4. British Columbia Court of Appeal**

This project is an extension of the British Columbia Supreme Court and Provincial Court e-filing project and included enhancements to the Court of Appeal case management system to handle electronic documents. There was no RFP or Market Scan undertaken. This project went live in May 2011 and is currently in pilot with selected law firms and registry agents. Full participation is expected by the end of 2011. Participation is optional.

### **2.5. Alberta Court of Appeal**

This project was started in 1998 without an RFP or Market Scan. The scope of the project involves creation of electronic appeal books for all matters over 10 days. It was implemented in one phase. E-filing for this project is mandatory.

### **2.6. Saskatchewan Court of Appeal**

The “eCourt” project is an initiative of the Chief Justice of Saskatchewan with the support of the Court of Appeal and the Department of Justice. Needs assessment documentation for eCourt began in May 2008 when Potter Farrelly Consulting was retained by the Court. Implementation of this 4-phase project is expected to begin by October 30, 2010. There was no Market Scan performed but an RFP was issued resulting in the selection of a commercial solution (see section 3.4 for additional detail).

The eCourt initiative will result in the automation of many of the Court’s procedures and will provide a presence to the public, counsel and litigants through the Internet and public portal.

There are three separate but integrated functions to eCourt: (1) e-filing, (2) Case Management, (3) Document Management. The ultimate objective of the e-filing system is to enable all litigants to complete and file court documents electronically. The Document Management portion will provide access to the electronic case file to all proofed subscribers who are parties to the file. The Case Management system will create the improvements in the efficiency and general management of the Registry and Court processes by making the best use of available technology. The implementation and integration of the three systems in the Court of Appeal will be done incrementally during the 4th quarter of 2010.

Internal implementation has already begun. On July 19, 2010 the Court went live internally with Civil Appeals. The Court successfully converted all electronic civil data from their old Court of Appeal Tracking System to eCourt with approximately 60 files requiring hands-on entries. All Civil matters are now being entered into eCourt. The Court plans to go live internally with Criminal matters on August 23, 2010.

E-filing will not be mandatory, however it is an eventual goal.

## **2.7. Ontario Superior Court of Justice**

Toronto E-file began in 1996 as a project of the Toronto Superior Court of Justice. It operated successfully for a number of years but was completed in 2002 due to a number of factors, including issues with the scalability of the pilot approach.

Ontario E-File was part of the larger Integrated Justice Project (IJP) and was piloted in the Ontario Superior Court, Civil and Small Claims Court in three locations in Ontario. When the IJP was suspended in 2002 the e-filing pilot ended with it.

The Court Services Division (CSD) of the Ministry of the Attorney General oversees the technological administration of the Superior Court. CSD is in the process of implementing a major information technology modernization initiative, known as the Court Information Management System (CIMS). CIMS will include functionality to manage incoming and outgoing electronic documents, including e-filing. A first version of CIMS is expected in the Spring of 2012.

## **2.8. Competition Tribunal (Federal)**

This project was started in 2009 and is a full revision of an existing e-filing system. It is intended to simplify e-filing for the users and to add a section where parties can securely retrieve documents served by the Tribunal. There was no Market Scan or RFP involved; this project is in progress and needs to be completed by 2010. E-filing is optional.

## TECHNOLOGY

### 3.1. Federal Court

LexisNexis Canada developed and continues to operate the external interface that the e-filers use. CAS developed and operates the internal interface that Registry staff use to process the e-documents submitted for filing. At present, a solution is being sought to link the e-filed documents to the Court Records Management System to facilitate direct access to these documents within this system.

### 3.2. Tax Court of Canada

Consultants were retained to build the Tax Court's web framework to support e-filing. The Tax Court's e-filing application was maintained by the Court prior to administration being taken over by CAS (Courts Administration Service) in 2003. No substantive development has occurred with respect to the web filing application since creation.

### 3.3. British Columbia Supreme Court and Provincial Court

A custom solution was developed which was an extension of the custom case management solution. This approach was more cost effective and produced a solution which was better matched to requirements. The case management system is built in ORACLE Forms against an ORACLE database. Court Services Online is a JAVA application.

Sierra Systems worked with internal Court Services, Judicial and IT resources. Sierra Systems is the selected vendor for a broader RFP to develop and support the entire Justice Suite of applications

### 3.4. British Columbia Court of Appeal

The technology used for the public facing part of this project (Court Services Online) is the same as that for the British Columbia Supreme Court and Provincial Court project. The backend Court of Appeal case management system (WEBCATS) is a custom developed system and was enhanced by MicroSystems who hold the contract for maintenance of the application. WEBCATS is developed in JAVA, .NET against a SQL Server database.

### 3.5. Alberta Court of Appeal

The project involved a custom-built web application using a combination of ASP.net and 1.1 on IIS 6.0 with Windows 2003 servers. All content is managed by SQL Server 2000 database.

User accounts and security roles using ASP.net security and membership is verified via email. It was built by in-house Court Technology Services staff.

### **3.6. Saskatchewan Court of Appeal**

A commercial solution was purchased utilizing web-based e-filing, case and document management. The successful vendor was Sustain Technologies, Inc., with its web-based product called "eCourt." The eCourt solution uses On-Base for the document management system.

A pre-existing product allowed the Court to implement the changes more expeditiously and with less risk.

### **3.7. Ontario Superior Court of Justice**

To be determined.

### **3.8. Competition Tribunal (Federal)**

To be determined.

## **COSTS**

### **4.1. Federal Court**

An actual cost for the Court cannot be tabulated for this project in that much of the external interface development costs were borne by our e-filing provider, LexisNexis Canada. CAS did bear the internal costs, such as the interface that Registry staff and judges use to process and view e-filed docs, but that amount is not known.

### **4.2. Tax Court of Canada**

There was a one-time fee of \$570,000 paid to an outside firm for the development of the web filing application. There are no ongoing maintenance fees.

### **4.3. British Columbia Supreme Court and Provincial Court**

Approximately \$5,000,000; these costs include more than just the systems development cost; they also include legal and policy work, requirements definition, surveys, focus groups, hardware costs, training, communications, costs of staff transferred full time to the project, and travel expenses.

### **4.4. British Columbia Court of Appeal**

Approximately \$75,000; these costs include enhancements to Court Services Online eFile, Court of Appeal Case Tracking System (WEBCATS) and integration between the two applications which run on different domains.

#### **4.5. Alberta Court of Appeal**

Approximately \$30,000.

#### **4.6. Saskatchewan Court of Appeal**

Approximately \$275,000, including requirements documentation by the outside consultant.

#### **4.7. Ontario Superior Court of Justice**

To be determined.

#### **4.8. Competition Tribunal (Federal)**

To be determined.

### **KEY DOCUMENTATION**

#### **5.1. Federal Court**

1. Survey for Counsel Regarding Electronic Filing (prepared for and by the Supreme Court of Canada and the Federal Court) - Winter 2002;
2. Electronic Filing Study (analysis by COMPAS Inc. of the results of the above Survey) - April 2002;
3. Evaluation of CAS' two e-filing systems (Federal Court and Tax Court of Canada) and future options;
4. Various cooperative agreements with LNC and Memoranda of Understanding with Canada Revenue Agency.

#### **5.2. Tax Court of Canada**

1. Tax Court of Canada Integrated Appeals Processing System Web Architecture and Recommendations;
2. Web Hosting Cost-Benefit Analysis;
3. Proof of Concept - Findings and Recommendations;
4. Appeal System Plus - Release 2.0 Project Plan.

#### **5.3. British Columbia Supreme Court and Provincial Court**

1. Access Polices;

2. Vision document & framework;
3. Project Management & Systems Development Documentation, including:
  - Master Project Plan
  - Issues Log
  - Risk Management Plan
  - Communications Plan
  - Requirements Document
  - Functional and Technical Design Document
  - Test Plan

#### **5.4. British Columbia Court of Appeal**

1. e-Filing Requirements;
2. Detailed Functional Design;
3. E-filing Rules.

#### **5.5. Alberta Court of Appeal**

1. Electronic Appeal Books.

#### **5.6. Saskatchewan Court of Appeal**

1. Potter Farrelly Report;
2. Request for Proposal and Requirements Document;
3. Amendments to the Civil Rules and Tariff of Fees (in progress);
4. Development of Criminal Rules (in progress);
5. Implementation of manuals for data entry (in progress);
6. Preparation of Disclaimer (in progress);
7. New transcript format which will apply to all three Courts.

## 5.7. Ontario Superior Court of Justice

To be determined.

## 5.8. Competition Tribunal (Federal)

To be determined.

## TAKEAWAYS

### 6.1. Best/Worst Results

#### 6.1.1. Federal Court

The Court's e-filing pilot has facilitated transmission of thousands of documents with the Canada Revenue Agency (CRA). Historically, these largely "administrative" proceedings have always had poor turnaround times and consumed a lot of Registry resources to process. With e-filing there have been significant cost savings for both CAS and CRA.

CRA has expanded its initial CRA e-filing program (EDOCS) incrementally with a goal to eventually include all of its Tax Services Offices (TSOs) in e-filing. Initially only 2 TSOs filed electronically and in time this number has increased to 20 TSOs. As of August 2010 CRA e-filed about two-thirds of its workload. By the end of January 2011, they intend to reach 100% e-filings.

The Chief Justice of the Federal Court has directed that the documents filed by CRA need not be printed; therefore the electronic versions of these documents serve as the official court record.

Non CRA filings represent only 6% of documents e-filed.

Uptake for e-filing in other areas of FC business has generally been much lower and represent 6% of e-filed document.

It is important to note that the electronically filed documents are not accessible nor linked to the docket entry in the Registry's case management system ("CMS") which prevents staff and judges from accessing court document electronically until this issue is resolved it is not practical to increase the number of e-filed documents.

#### 6.1.2. Tax Court of Canada

The project has been a success in that the number of documents submitted by web-based e-filing have increased each year since the project began. Users have remarked on the ease of use of the Tax Court's e-filing system.

A downside is that the web application has not substantially changed since creation. A number of required improvements have been identified and will be implemented as soon as resources are available. For example, e-filers are unable to make payments online. They are also unable to submit documents over a certain size. In addition, the various categories of documents that may be filed are restricted.

### ***6.1.3. British Columbia Supreme Court and Provincial Court***

The e-filing project has proven to be the cornerstone of the court's e-Court strategy. It has resulted in moving BC Courts to a complete electronic court file.

A downside is that it currently puts the Registry in a mixed model of handling mostly paper filing with the addition of electronic filings. In 2011, the courts began piloting a "print on demand" model for all eFiled documents. Early results are very positive with the expectation that all remaining sites will proceed within 2012. This peace is instrumental in achieving the efficiencies promised by eFiling.

### ***6.1.4. British Columbia Court of Appeal***

A key challenge of this project was dealing with the systems running on different domains: the judicial domain and the provincial domain used by Court Services staff. The cross domain authentication supports single sign on and is key building block for future integration projects. Otherwise this project was very straight forward as it was built upon the existing components of the eFiling solution for Supreme and Provincial court.

### ***6.1.5. Alberta Court of Appeal***

The bench and the bar feedback have been very positive. The electronic appeals are described as user-friendly and helpful when preparing to argue/hear appeals.

### ***6.1.6. Saskatchewan Court of Appeal***

The existing operations review proved to be invaluable. The goal was to make the Registrar's office run as efficiently as possible on the assumption we would not have the financial support to set up an electronic case management and document management system. The review by Potter Farrelly effectively caused the staff to objectively look at the existing procedures and practices and then answer the questions: why were things done the way they were, and was there a better way to carry out the function? When the Court embarked with eCourt the staff was well prepared to explain to the supplier why things were being done the way they were and the staff knew the ultimate results they wanted.

The review of present office workflow with the Registrar and the Judicial Assistants revealed duplication and triplication, followed by many improved

workflows in case management. Multiple repetitive duties will now be automated, statistics will be produced electronically, and judges will have the ability to access their schedules electronically and easily download the case summary page and all electronic documents.

A downside was that the workload in the office of the Registrar increased approximately 30% during the transition and until recently no additional personnel were assigned to assist in the Registry. In hindsight the Court would have ensured that the Registry had additional staff to handle the increase in workload during implementation.

It is felt the Court's approach as described above helped to avoid conflicts once the supplier's system, eCourt, was implemented. Any problems from lack of familiarity by the staff and the effect of dramatic change were effectively prevented. This was because the staff was able to lead and guide the changes, and once they realized how the office could run efficiently they were also more open to suggestions for improvement.

#### ***6.1.7. Ontario Superior Court of Justice<sup>†</sup>***

The implementation of Toronto E-file in 1996 was funded as a component of the annualized software maintenance and enhancement budget for the Toronto Superior Court of Justice case management system.

As for Ontario E-file, major cost increases and delays plagued the IJP. In March 1998 the project cost estimate was \$180 million and by the same time in 2001 it had grown to \$359 million - a nearly 100% increase. There was also a marked decrease in the expected benefits (from \$326 million to \$238 million, a 27% decrease).

The Office of the Provincial Auditor of Ontario concluded that due diligence was not adequately undertaken in the IJP which resulted in the unrealistic cost projections.

The business case on which the project was based had several weaknesses, to include:

- Aggressive schedule; only best case scenario was considered;
- Change considerations not adequately addressed;
- Complexity of justice system not adequately considered;

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<sup>†</sup> Information derived from the Report of the Ontario Auditor General.

- Ability of vendors to deliver requirements (i.e., computer systems) on time;
- Over-stated estimation of benefits.

Again, it should be noted that the points above relate to the entire IJP, of which e-filing was a very small portion.

#### ***6.1.8. Competition Tribunal (Federal)***

The present e-filing system has not been used very much by parties, as there seems to be a preference for sending documents by email.

### **6.2. Lessons Learned**

#### ***6.2.1. Federal Court***

The e-filing project went into production without the benefit of a project management framework or a thorough needs analysis which would have identified complete user requirements. For example, the e-filing application does not link e-filed documents to the CAS' CRMS docket entries. Consequently, CAS now finds itself in some difficulty in providing access to e-filed documents as these documents are not easily accessed by CAS employees and judges let alone CAS clients. When this situation gets resolved a detailed plan for increasing e-filing will be developed and implemented.

As CAS does not own or control the existing e-filing application, it is prevented from resolving technical problems as they arise. CAS must rely on the service provider for technical support as they have sole proprietorship and control of this application.

#### ***6.2.2. Tax Court of Canada***

Developing a user-friendly application has proved successful, resulting in increased annual use. However, due to the simplicity of the e-filing application there is no identity verification of e-filers as they do not have to log in or create a user account to submit a document for filing.

#### ***6.2.3. British Columbia Supreme Court and Provincial Court***

It was beneficial to focus first on legislation, rules and policies that needed to be created or changed first, before looking at system changes. A recommended different approach would be to work on the ability to process electronic documents internally before enabling e-filing.

#### ***6.2.4. British Columbia Court of Appeal***

This project showed that if initial projects are done correctly in terms of their architectural design and approach that adding additional courts does not have to be a costly project. A key success factor of this project was the leadership provided by the Court of Appeal registrar.

#### ***6.2.5. Alberta Court of Appeal***

Keeping the process simple and easy for users was a good approach to take. An approved approach would involve engaging stakeholders early on in the project.

#### ***6.2.6. Saskatchewan Court of Appeal***

The eCourt project has provided an incentive to review the Court's Rules of Court fee structure. It also provided the impetus to produce a new transcript format. It has led to a review of the legislation pertaining to the retention of court records in conjunction with Saskatchewan Archives and the Department of Justice.

Having the support of judges is critical to the success of a project. It should be kept in mind that any changes should be made 'judge friendly' as much as possible to help ensure project success. The end goal should be to move judges away from the desire or need for paper, and demonstrate that the changes being made are worth the effort.

#### ***6.2.7. Ontario Superior Court of Justice***

To be determined.

#### ***6.2.8. Competition Tribunal (Federal)***

It is believed that if parties need to use the e-filing system to retrieve Tribunal documents and decisions they will get accustomed to the system and will at least use it to file confidential documents.

### 6.3. Additional Insight

#### 6.3.1. Independent Consultant Review of E-Filing Participation/Various Projects

From early 2009 to September 2009 an independent consultant met with Department of Justice participants in the Federal Court e-filing project, as well as participants in e-filing projects in other jurisdictions. The consultation resulted in an understanding of government lawyers' requirements, along with the observation of how resistant lawyers are to changes in the way they interact with the court.

Recommendation from the consultant's review is that a structured questionnaire is useful for gathering information, rather than reliance upon anecdotal observation.

### CONCLUSION

The e-filing projects discussed in this document cover all types and levels of courts, from the tribunal level to provincial courts and federal. In the nearly 15 years involved across all the projects, some have resulted in failure, in moderate success, with some showing continuing growth and promising potential. No matter the result, all are a valuable source of insight and information which should provide guidance for future projects, or aid existing ones to improve their likelihood of success. What is required is the time and effort to look at the projects and identify common themes. That was the goal of this document.

Before an e-filing project is undertaken the following are recommended as baseline considerations that should be addressed as they will impact project development and outcome:

- Requirements documentation;
- Potential court rules and/or legislative changes;
- Effect on court processes;
- Result of dual workflows (electronic and paper);
- Costs (to include development, ongoing support and maintenance);
- Maintenance and troubleshooting resources.

Other considerations may not ‘make or break’ a project but will certainly help to improve the experience and potentially improve results:

- Engage stakeholders early;
- Document information gathering (i.e., use questionnaires);
- Consideration of resistance to change by members of the bar;
- Make the process simple/easy for users.

The following considerations may not affect the development process but need to be kept in mind as they may affect post-implementation success:

- Promoting uptake (how and who has the responsibility);
- Training (who trains the users);
- E-filing costs (costs, if any, to e-file);
- Mandatory or permissive e-filing.