Learning Law by Building Software Applications

A proposal for Future Ed, Fall 2010

8/23/10 [assembled by Marc Lauritsen]

Summary: Courses built around students developing functional software applications that embody legal knowledge, and otherwise working with and thinking about such systems, are powerful educational experiences. A group of us would like to survey past and present efforts along those lines, gather relevant materials, and consider how courses like these might play roles in a more sustainable and effective legal education system.

Point Person: Ron Staudt

Participants: (professors unless otherwise indicated)

• Brian Donnelly, Columbia Law School (librarian)
• Brock Rutter, State of Vermont / Berkman Center (instructor, graduate student)
• Blair Janis, WealthCounsel (commercial software developer) and BYU Law School
• David Johnson, New York Law School
• John Mayer, Center for Computer-Assisted Legal Instruction (director, technologist)
• Larry Farmer, J. Reuben Clark Law School, Brigham Young University
• Marc Lauritsen, Capstone Practice Systems (consultant, educator)
• Oliver Goodenough, Vermont Law School and Berkman Center
• Richard Granat, MyCounsel (entrepreneur)
• Ron Staudt, Chicago-Kent College of Law

Action Items (to be done by April 2011):

• Build an inventory of past and present courses
• Identify people who’ve had experience with such courses
• Elicit lessons learned and best practices
• Gather course descriptions, syllabi, and reading materials
• Consider working with CALI and others to create a distance learning course along these lines that any student at any law school could take
• Produce a report summarizing the above

Why this is significant to the future of legal education:

• Educational potency of the method
• Relevance to new career paths (lawyers as knowledge engineers)
• Systematization attempts can provide a scholarly lens into doctrinal issues
• Courses like this can contribute to service delivery system innovation
• They can contribute to present service delivery and access to justice improvements
• Helps build bridges with courts, legal services programs, technology vendors, entrepreneurs, ...

By constructing useful applications, students not only (1) learn about substance (doctrine, procedure) in a given area and (2) learn how technology can be used creatively to assist in legal work (and some of the policy and ethical aspects of doing so), but (3) produce tools that they or others can bring to bear to improve access to justice. They also gain credentials for current and future employment.

**Current examples**

We are aware of at least a dozen courses of this sort in the United State alone, historically. Here are some current examples.

**BYU J. Reuben Clark Law School:** As an outgrowth of the Computer-Based Practice Systems project (CAPS) at BYU Law School from 1979-1987, Prof. Farmer began a 2-credit computer-based practice system development course (CBPS) in 1984 for 2nd and 3rd year students.

The purpose of the CBPS course was to introduce students (a) to the range of potential applications of computer-based practice system in law practice, (b) to teach them to use the CAPS authoring system to develop new practice applications and (c) to facilitate the adoption of computer-based practice systems by the profession by graduating practitioners who could develop their own practice systems or work as expert developers who could help other firms develop CAPS like applications.

The CBPS course has been nearly continuously taught at BYU for the past 26 year with registrations ranging from 5 to 40 students each year. While on a visiting appointment at Harvard Law School in 1986-87, Prof. Farmer, working in collaboration with Marc Lauritsen, taught the CBPS course there and again taught the course there as an adjunct instructor during the Winter terms of 1988 and 1989.

Early in this decade the CBPS course stopped using the DOS-based CAPS tools in the course and began using HotDocs, the commercial derivative of the original CAPS authoring environment. In 2004, Blair Janis, a graduate of BYU Law School and former student in the CBPS course, took over responsibility for the course from Prof. Farmer and has been teaching the course at BYU since that time.

In addition to the basic course, BYU Prof. Farmer and Janis have periodically taught an advanced version of the CBPS course that has been limited to students who have completed the basic course. The Advanced CBPS course focuses student effort on individual and team term projects undertaken in collaboration with public service and commercial law firms.

A significant number of students who have taken the basic and advanced CBPS courses at BYU have after graduation carried these ideas to their firms and others have used the course as a springboard leading to alternative careers as practice system developers for public and private law firms. For example, Blair Janis, as a result of taking the CBPS course at BYU, developed a career as a practice system developer and has engaged in an impressive range of practice system development and entrepreneurial activities.
Chicago-Kent School of Law, Ron Staudt: Law 506 Justice and Technology Practicum. (Fall 2010)
Students will explore access to justice issues, including the use of technology in law practice and legal services, alternative legal services delivery models, e-lawyering, unbundling and pro se litigant assistance. Class meets for one (1) hour each week to discuss assigned readings on these topics. Additionally, for twelve (12) hours a week students work on client service and drafting projects with the Center for Access to Justice & Technology (CAJT), whose mission is to provide low-income individuals with greater access to the legal system through the use of internet technology. The practicum provides students with experience in assisting self-represented litigants and providing legal information to low-income individuals. Students will also draft automated court forms and instructions for pro se litigants and the public. A variety of legal topics are available for student projects, including landlord/tenant, domestic relations and consumer rights. These drafting projects include the following activities: researching, drafting, and editing Web based legal education materials and legal forms with instructions for the public and developing plain language user interfaces for Web based document assembly. Some audio/video production may be used in creating these materials. The practicum requires twelve (12) hours per week spent on practicum activities outside of class. No prior technical training is required beyond normal computer familiarity with word processing. Students may earn additional credit the following semester by arrangement. Four credit hours.

Columbia Law School: Lawyering in the Digital Age Clinic
Over the past 10 years clinic students have worked with several Legal Aid and Legal Services organizations to assist lawyers integrate technology in their law practices and to make legal information more available to underserved communities. The Clinic has also partnered with Judges on all levels of the New York Judiciary. Several Clinic projects have been done with direct collaboration with the Chief Judge of the Court of Appeals, the Chief Administrative Judge of the New York City Civil Courts, and the Office of Administrative Trials and hearings in New York City.

Students have created two of the "Access to Justice" self help programs in the New York City Housing Court. Several projects have been focused on building websites such as the online learning management system created for the New York State Court System to train non-attorney judges. There also several other examples of student created web content that can be referenced, if that is desirable.

Other recent and ongoing fieldwork projects are examples of "learning law by building software."

New York Law School.
Certificate of Mastery of Law Practice Technology; TechLaw Lab; Law Practice Technology Job Track
In all these contexts, students have been challenged to build software programs that embody legal doctrine or play a role in legal processes. Some have built kiosks to assist pro se litigants in housing court, developed "clickable statutes" to represent the structure of complex legislation, and built expert systems and automatic document assembly systems.

University of New Mexico. Professor Mike Norwood reports "My latest surprise in this technique was assigning my students a project involving video production software. I had my clinical students produce
a multi-media video (captions, power-point, voice-over, and story-boarded, scripted scenes of lawyers at work). My goal was to use their completed video in my "virtual clinic" project to help prepare future clinical student for first appearances in juvenile court. A couple of surprises resulted. First the project promoted excitement around collaborative peer learning. Second, the video starkly exposed significant gaps in their grasp of both substantive knowledge and lawyering skills. Of course we thought that we had thoroughly covered all of the "gap" topics in our the classroom component or one on one supervision. Clearly exposing these gaps gave me the opportunity to further their learning. There are many more examples of this kind that grow out of our deployment of software in our live client clinical setting."

Vermont Law School: In the spring of 2010, a team led by Prof. Oliver Goodenough taught a course called “Digital Drafting” at Vermont Law School. The course introduced students to several areas where technology is impacting the practice of law. The course was concerned with the technology of law as opposed to the law of technology; like other courses on this list it was concerned with using computers to do substantive legal work. Subjects included document assembly, expert systems, XML and similar tagging, e-discovery, e-government, a look at the Vermont Digital LLC project, and business model and ethics implications. Students built rudimentary A2J and HotDocs interviews and templates and advised a mock institutional client in addressing document retention and destruction issues.

The inclusion of the Digital Corporations / Digital LLC and XML tagging components may be unique to the Vermont class. In discussing XML tagging we looked at the recent adoption of SEC rules requiring many business filings in XBRL, and discussed the possibilities for tagging in other public or private sector settings.

The course was taught to about 15 second and third year students. We are exploring the possibility of expanding this course to a suite of law and technology offerings delving more deeply into each of the above subjects.