

The Federal Lawyer In Cyberia

MICHAEL J. TONSING

Microsoft Outlook™ Made Easier and Possible Return Receipt Solutions

You probably work with Microsoft Outlook. Despite its obvious popularity, several of its most useful functions are underused because finding them requires a bit of work. The first half of this month's column includes a few easy-to-implement suggestions that may save time, prevent extra stress, and keep the plates spinning properly. The second half of this column covers several programs that can help you to know when your e-mails have been received and opened. They amount to something similar to snail mail's "Return Receipt Requested."



Microsoft Outlook Made Easier Color Coding Important Senders

One of those underused features of Microsoft Outlook is color coding. Let's say that you want e-mails from your spouse to be particularly obvious when they are in your Outlook inbox. Or perhaps you want to respond with lightning-like speed to e-mails from your supervisor. Just go to Outlook's Tools menu, select "Organize," then select "Using Colors," and then choose specific colors for e-mails from specific sources. Choose red perhaps for your spouse and maybe green for your boss.

Searching Made Easier

You can, of course, use your Outlook account as a filing cabinet that has no organization whatsoever and just search for particular past e-mails by using Outlook's native search feature. However, instead of merely entering a word into Outlook's search box, you can focus your search and avoid spurious hits by giving the search engine specific parameters. If I recall that the client's e-mail had the word "deed" in the subject line, I can enter "subject: deed" to retrieve all e-mails about deeds. Or if I want to find all e-mails from my wife, I can enter "from: Cecilia." This search-narrowing technique works with several other limiting terms, including "to," "sent," "cc," and "message size."

Making Better Use of Calendars

Attorneys sometimes build their work lives around short bursts of time and sometimes around longer blocks, depending on the nature of their practices, but Outlook's calendar function defaults to half-hour scheduling parameters. A lawyer who prefers to look

at the day in hourly intervals, rather than accepting Outlook's default 30-minute blocks, can right click anywhere hours are shown and select "60 minutes." (Other increments—such as 5, 10, and 15 minutes—are also available.)

Some attorneys, including many government lawyers, have their offices in one time zone and conference call responsibilities in other time zones. Outlook can be set up to display other time zones right beside the lawyer's own time zone simply by right clicking on the listed meeting hours, selecting "Change Time Zone," then checking the box labeled "Show an Additional Time Zone." This feature is helpful for those who routinely work across time zones, because it prevents mistakes caused by not anticipating the right time for the other person. (This can help avoid wasted calls during lunch hours, for example.)

A "Swap Time Zone" button can be used to quickly change from one primary zone to another, a feature that can help traveling lawyers translate their schedule as they fly from place to place. An Outlook calendar on laptop computers that includes calls to other zones can adjust to the zone in which the user is working.

There you have it—a few suggestions that are quite easy to implement and may save time, avoid stress, and help you juggle many things at one time. Now, let's turn to ways to verify receipt of important e-mails.

Return Receipt Solutions

It can be vexing to send an e-mail to opposing counsel and wait for a response, only to have them later deny receiving the e-mail you sent. Worse, perhaps, is the lawyer who admits to having received the e-mail but says he didn't get around to opening it yet because of the press of other business. There are ways to protect yourself from such moments.

Configuring "Read Receipt" in Outlook Itself

Most of us must have configured our own Outlook account just to send and receive e-mails. As noted above, some of the e-mails we send might be important and urgent, and you may need to know if the recipient has read them and when. "Read Receipt" is an internal Outlook feature that can be configured rather easily. It can be set to provide a receipt for a single message or to provide one for all Outlook messages that you have sent (that is, if it works, of course).

If you want to configure "Read Receipt" for all

your e-mail within Outlook, go to the “Tools” pull down, select “Options,” then select the “Preferences” tab and locate a button called “E-mail Options.” In the “E-mail Options” window, select “Tracking Options.” Enabling the “Read Receipt” option will make sure that all the messages sent from your inbox will have the receipt attached to it. You can also select the “Delivery Report” checkbox to ensure that the e-mail has been delivered. It is also possible to configure “Read Receipt” for a single e-mail. After composing your e-mail, click on the “Options” button and follow the directions above, except check the boxes for a single message.

For more “official” information on using this Outlook feature, visit support.microsoft.com/kb/192929. But also look at Microsoft’s guidance at support.microsoft.com/kb/196495, where Microsoft candidly admits that “Read Receipt” doesn’t always work: “Regardless of the options you select, some e-mail servers will never return a receipt and others may always return a receipt, regardless of whether or not the message has been read. ... Some e-mail servers that normally return a delivery receipt will not send a receipt if the message is sent in Microsoft Outlook rich-text format.” Yikes! For a blog that discusses “Read Receipt” and gives graphic images of what to click to set it up and why, visit on-his-mind.blogspot.com/2009/07/how-to-setup-read-receipt-in-outlook.html, the URL for Edwin Watson’s blog called “On His Mind.”

However, if you find the above description daunting, scary, unsatisfactory, or just plain cumbersome—or, if you, like me, absolutely would not want to get an e-mail confirming the receipt of each sent e-mail and don’t want to go through a series of steps for each special e-mail—there are other choices. Read on.

Alternatives to Outlook’s “Read Receipt”

There are many certified e-mail services available. (That is not surprising, given the serious limitations of Outlook’s internal system.) However, these services vary considerably in terms of the features they provide. Some service require downloading software; others require that subscribers append their names to the recipients’ e-mail addresses (although recipients do not see the names in the e-mail that has been delivered).

Point of Mail is one such service, which, according to Pointofmail.com, is “the most powerful, useful and reliable e-mail tracking service that exists on the Web today.” At a yearly cost of \$29.99 for basic service (and up to \$44.99 for super-duper service), Point of Mail subscribers can both track and control e-mails they’ve sent and know when e-mails and attachments they’ve sent are read as well as where and for how long they were read. If the e-mail has been forwarded, you’ll know that too. Subscribers merely add “pointofmail” to the recipients’ e-mail address.

Delivery confirmation (under the super-duper plan) can be sent as a text message to your cellular phone, if you choose this option. The system even allows you

to “claw back” sent messages and to send messages that “self-destruct” after a period of time. The bells and whistles available far exceed the scope of this column. A one-week free trial is available (up to 30 e-mails) by visiting www.pointofmail.com.

Point of Mail has modes that are not transparent to the recipient, arguably infringing on their privacy but perhaps accomplishing your mission as a lawyer. Users have reported that it can be difficult to forward or reply to e-mail sent through Point of Mail.

ReadNotify is another sophisticated certified e-mail service. Like Point of Mail’s Web site, readnotify.com asserts that it “is the most powerful and reliable e-mail tracking service that exists today. In short—ReadNotify tells you when e-mail you sent gets read/re-opened/forwarded and so much more.”

ReadNotify has options to let the sender know whether an e-mail was opened under all circumstances and provides proof of sending as well, while keeping virtually all the complexity behind easily accessible plug-ins, tools, and e-mail shortcuts. The service is recommended by about.com’s reviewers, who were not as thrilled by Point of Mail’s product. “If you need to go the absolutely surest route, “ensured-receipt,” ReadNotify messages will let you know about the message status no matter what the recipient uses or does,” says one comparative review found on about.com. Unlike Point of Mail, ReadNotify lets the recipient know that a receipt is being sent back to the sender.

Finally, two e-mail tracking services—Msgtag (www.msgtag.com), which costs \$20 a year and includes a free trial and offers a simpler free version, and DidTheyReadIt (www.didtheyReadIt.com), which costs \$50 per year and has a free trial—actually insert a small piece of HTML code into outgoing e-mail messages, enabling the services to track your e-mails for you but only when they have been received by an HTML-compatible e-mail system like Outlook or Outlook Express or by an Internet-based mail service like Hotmail. Both of these services can tell senders when the message was received and when it was opened. DidTheyReadIt goes much further, allowing the sender to find out how long the message window was left open and whether the recipient forwarded the message.

DidTheyReadIt also grabs the Internet provider’s address (that is, the unique identifying computer address) of the computer used to open an e-mail message and then uses that address to determine the recipient’s location—right down to the city he or she is in. DidTheyReadIt even provides a link to MapQuest, showing precisely where the recipient is. (As a recent article in *PC World* magazine notes, in the hands of a predatory adult who is in e-mail communication with a child, this could be extremely dangerous!)

As a potential recipient of an e-mail missive from either of these services, you can defeat them by

owner can take a reasonable amount of time to determine if the morals clause has been implemented.⁶ Although it seems unlikely that time will change the result in Miss Celeb's case, the brand owner does have time to determine the public's perception of the incident and decide if it wants to terminate the endorsement arrangement.

Celebrity endorsements are a risky business for brand owners. There are still hundreds of thousands of boxes of Super Sugar Puffs bearing Cindy Celeb's picture on the market, so there is some potential for damage to Super Sugar Puffs associated with the agreement with Cindy Celeb. However, you can minimize the damage by canceling the grocery store appearances under the morals clause and not printing any more cereal boxes that have her picture on the front. While you are glad your attorney included the morals clause in the agreement as a way to minimize your damage, you are starting to understand how Snap, Crackle, and Pop have been able to keep their endorsement gig since the 1930s. **TFL**

Sarah Osborn Hill is a registered patent attorney and a member of the Intellectual Property and Technology Licensing Group of Wyatt, Tarrant, & Combs LLP, where she counsels clients and litigates in patent, trademark, copyright, unfair competition, trade secret, and advertising matters. She is based in the firm's Louisville office and can be reached at shill@wyattfirm.com.

Endnotes

¹See Noah B. Kressler, *Using the Morals Clause in Talent Agreements: A Historical, Legal and Practical Guide*, COLUMBIA J. OF L. & THE ARTS, 235, 240–41 (Winter 2005).

²Adapted from *Loew's Inc v. Cole*, 185 F.2d 641, 645 (9th Cir. 1950).

³See *Loew's*, 185 F.2d at 641, *Twentieth Century Fox Film Corp. v. Lardner*, 216 F.2d 844 (9th Cir. 1954); *RKO Pictures Inc. v. Jarrico*, 274 P.2d 928 (Cal. App. 1954); *Scott v. RKO Radio Pictures Inc.*, 240 F.2d 87 (1957); *Nader v. ABC Television Inc.*, 150 Fed. Appx. 54, 2005 WL 2404546 (Sept. 30, 2005).

⁴See Kressler, *supra* note 1, at 235, 255.

⁵*Id.* at 251–52.

⁶*Loew's*, 185 F.2d at 655–56.

MESSAGE continued from page 3

joining their bar." As with the Rashomon Effect, it's all in the perspective.

So, by any means necessary, do something for the greater good with some of your retirement time. As Dylan Thomas wrote,

Do not go gentle into that good night,
Old age should burn and rave at close of day;
Rage, rage against the dying of the light.⁵

Of course, you could also run for president of your

bar association. But above all else, do not go gentle into that good retirement.⁶ **TFL**



Endnotes

¹The National Native American Bar Association does not have a section or a division devoted to senior lawyers.

²Adapted from "Twelfth Night," Act 2, Scene 5: "Be not afraid of greatness: some are born great, some achieve greatness and some have greatness thrust upon them."

³With apologies to Mr. Shakespeare's *Hamlet*.

⁴This is a specific example that Jim Richardson, a former president of the FBA, and I got from the dean of a law school in Washington, D.C., who thought that students would find it beneficial to hear what someone from the ethics review board of a state bar has to say.

⁵Dylan Thomas, "Do Not Go Gentle Into That Good Night." (1951)

⁶With apologies to Dylan Thomas.

CYBERIA continued from page 13

disabling your display of HTML content. Unfortunately, you won't be able to see any other images that are embedded in the body of received e-mail messages. (Image files sent as e-mail attachments will still get through, however.)

PC World points out that, for people who use Outlook (versions 2000 through 2003) and don't want to turn off HTML in their mail messages, former Netscape programmer Mike Belshe has created a free program called "NoSpyMail" (belshe.com/nospymail) that can detect and block Web bug elements in messages coming through sources like Msgtag and DidTheyReadIt without requiring you to turn off HTML in your e-mail software.

Conclusion

It is an interesting world out there in Cyberia. It is important to know what's going on and to take necessary steps to protect your interests. In using any software that tracks e-mail messages, it is crucially important for lawyers to consider all ethical implications, including—but not limited to—the implications of using any source that could arguably compromise the attorney-client privilege. **TFL**

Michael J. Tonsing practices law in San Francisco. He is a member of the FBA editorial board and has served on the Executive Committee of Law Practice Management and Technology Section of the State Bar of California. He also mentors less-experienced litigators by serving as a "second chair" to their trials (www.Your-Second-Chair.com). He can be reached at mtonsing@lawyer.com.