By David Horrigan

In today’s federal courts, high-tech courtrooms are the rule, not the exception. According to a Federal Judicial Center report, by the end of 2003, more than half of federal district courtrooms had video monitors in the jury box, and 93% were wired for laptops.

“The goal is to have every federal courtroom wired for evidence presentation, and all courthouses built in the last eight years have at least one courtroom that is fully wired and equipped,” says Richard Carelli, of the Administrative Office of the U.S.

But what happens when the high-tech litigator with an in-house graphics department confronts a vintage courtroom? Just such a scenario occurred in a recent patent duel between two automotive equipment suppliers. When one of the parties sought federal bankruptcy protection, the litigation’s venue shifted from what probably would have been a high-tech federal district courtroom to a standard bankruptcy courtroom, creating numerous challenges for the parties.

So the counsel, litigation support staff, and trial technology teams representing both sides in the patent dispute — Gentex Corp. and Muth Mirror Systems Inc./K.W. Muth Co. Inc. — joined forces to turn a bankruptcy courtroom into a modern facility for Muth Mirror Sys. LLC v. Gentex Corp. (In re Muth Mirror Systems LLC and K.W. Muth Co. Inc.), Nos. 06-25609; 06-25613 (Bankr. E.D. Wis. 2007).

The dispute revolved around car rearview mirrors. Due to the ingenuity of companies such as Muth and Gentex, automotive mirrors can now provide a veritable cornucopia of useful information. Muth and its related companies developed the Signal mirror that included a directional signal encased in the mirror, while Gentex developed mirrors that contained compass displays, heaters, and light sensors in an information display area within the mirror housing. Both companies held patents on their respective mirrors, and entered into an “alliance agreement” under which they agreed to work together, including on projects with General Motors. The mirror marriage didn’t last.

Gentex and Muth then sued each other in different federal district courts, alleging...
patent infringement and breaches of the alliance agreement. Months later, two Muth companies filed petitions for Chapter 11 bankruptcy protection. The district court actions were stayed, and adversarial actions were filed in the bankruptcy court.

Ordinarily, patent disputes would not be tried in a bankruptcy court. However, because the patent disputes were central to the issue of determining the assets and liabilities of the Muth companies in the bankruptcy proceedings, the trial teams found themselves in a bankruptcy courtroom in Milwaukee.

TRAVELING TECHNOLOGY

The remote location was an additional hurdle for the Gentex team. William McCabe, a partner in the New York office of Ropes & Gray was lead counsel. The Wisconsin trial team included lawyers, and technology and graphics professionals.

Before arriving in Milwaukee, graphics designer Carson Dottin created interactive demonstratives to simulate the operation of one of the mirrors, using Adobe Creative Suite 3, including Photoshop Extended CS3 and Acrobat 8 Professional (which won LTN’s 2007 Product of the Year Award. See page 35).

To give the trial team access to the technology in the firm’s New York and Boston offices, Ropes & Gray set up a war room in the offices of Gentex’s local counsel, the Milwaukee office of Foley & Lardner. Dottin, and Ropes & Gray graphics creative director David LaCombe, recreated their facilities in Wisconsin. “We pretty much took the whole studio to Milwaukee,” Dottin said.

To keep the communication flowing with the eastern offices, Ropes & Gray installed a virtual private network, so the remote team could access firm programs, perform PC and laptop synchronization and backup data as if they were back at the firm.

“For a month, [we] had a Milwaukee office,” said Sean King, a litigation technology specialist at the firm.

MUTH APPROACH

The Muth companies were represented by a legal team that included Jerome Kerkman of Milwaukee’s Kerkman & Dunn, and James Peterson and Bryan Cahill of Godfrey & Kahn of Madison, Wisc. Although based in Wisconsin, they, too, faced the challenge of the low-tech courtroom. They also had to balance the need for an effective high-tech courtroom presentation with the realities of a bankruptcy action.

Referring to the Ropes & Gray presentation, Godfrey & Kahn’s Cahill said, “They had in-house people working on graphics, and their presentation was obviously snazzy, but, representing the debtors, we had to be conscious of costs.”

Nevertheless, the Godfrey & Kahn team did present high-tech evidence.

Legal assistants Bruce Knapp and Adam Cares used Verdict System’s Sanction 2.8 for automatic call-up of documents and images, so counsel could zoom-in and mark-up documents. They also used CT Summation Enterprise Mobile as their document management software and CaseMap 7 and TimeMap 4 to create a chronology of events.

TRANSFORMING THE VENUE

Both sides were ready with state-of-the-art trial technology, but what about that courtroom?

“The courtroom was barebones. There were a couple of outlets, and that’s all we had,” said Godfrey & Kahn’s Cares.

In a cost-sensitive plan to transform the venue, two sides worked together to provide the trial technology. They jointly retained Aquipt National Litigation Technology Services, which has seven offices across the country, and split the costs.

Ropes & Gray technology team members Barbara Gueth, Preston Miller, Sean King, and Tonya Thomas worked with Aquipt and the Godfrey & Kahn team to build a tech courtroom that could meet the needs of both sides.

The bankruptcy courtroom soon had modern tech conveniences, including a 100-inch Da-Lite screen and a WolfVision visual presentation system to display the tech evidence in the courtroom. Seventeen-inch Hewlett Packard LCD displays were installed for counsel, witnesses and the judge, as was a professional sound system featuring 150-watt speakers by Fender Musical Instruments Corp.

The system also included inline switching so that the evidence of both sides could be displayed on it.

The major courtroom makeover was a private sector project — the parties paid for the technology, brought it into the courtroom and moved it out after the nine-day trial was over.

THE RULING

The trial began on July 16, 2007 and lasted until July 26. Judge Margaret McGarity issued her decision on Dec. 5, 2007, with Gentex prevailing on critical patent claims, while Muth prevailed on one of the legal disputes related to the alliance agreement.

From a legal technology standpoint, Gentex’s legal team at Ropes & Gray had another big victory.

Based on its effective use of its in-house graphics department, its success in operating at a remote location, and its contributions to transforming the bankruptcy courtroom, Ropes & Gray won the 2007 Law Technology News Award for Most Innovative Use of Technology During a Trial.