



Handheld scanners – an essential weapon in a litigator’s arsenal

Why you need one, what to buy and how to use it



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Handheld scanners are breadstick-sized devices that enable you to scan documents one page at a time in atypical or emergency situations. These scanners are battery powered, but the feed mechanism for scanning pages is human powered (that means *you* moving the scanner with your hand and arm over the material you want to scan/copy).

Why you need a handheld scanner

You may be asking, “Why the hell do I need one of these things?” One of the best-kept law office secrets is just how useful these seemingly mundane devices can be in a litigation practice. Even if you won’t be using your handheld scanner that often, the vignettes provided below show the device is really, really useful. It has rescued me out of many a tight situation. Even if a handheld scanner saves your butt just once in your entire legal career it makes the price paid for it a bargain. In this article I am going to tell you all you need to know about handheld scanners and will discuss an exciting product I came across and have been using for a while, the PlanOn DocuPen X05 handheld scanner (starting price \$300).

Handheld scanners in action

While the uses of a handheld scanner are many, what better way to illustrate some than with dramatic war stories, the stuff legal dramas are made of?

At trial - A digital “Perry Mason” moment: In a federal district court trial, I had defendant’s president on the stand. Bizarrely, his testimony completely contradicted what he had said in a letter. No one thought he would lie. I needed to dramatize the moment while he was sitting there all cocky, confident and emboldened when he saw a few jurors nod their heads in support and approval. (That is the horror of any trial lawyer, seeing jurors nodding in approval while a defense witness is testifying.)

Both sides had stipulated to using a single flat panel display connected to our computers. Each side could



project admitted exhibits from our respective computers and on to the display. What was the problem?

Simple, there were about 10,000 documents in the case and the incriminating document was only in paper form – it was never scanned. I needed to quickly get the paper letter (that was in a bound stack) into a digital format so that I could project it on the screen ASAP, not later after a recess or recalling him the next day. If I did not prove the witness’s lie now, while he witness was still on the stand and the lie fresh in everyone’s mind, the impact would be lost.

Because the letter was part of a Rule 26 exchange, admissibility was not an issue. I asked the court for “two minutes,” used my handheld scanner to quickly convert the letter into digital format and I was proving the defendant witness a liar within about three minutes of first asking the court for a moment to get the job done.

Proving Defendants are Liars with “Exhibit A” from the courthouse: The defendants had filed summary judgment motions in our case and in an earlier unrelated case in another superior court. We always look to see what defendant witnesses say in other court proceedings, hoping to hit the mother lode of impeachment.

The quick way to get this information was to take a look at the court’s file in the other case, rather than subpoena or attempt to obtain the documents through formal discovery or a letter to defense counsel (you know how that would go.)



We had a law clerk visit Superior Court records to snoop in the case file. She quickly found the declarations. She called and confirmed that yes, the defendants were lying.

At that point, our law clerk could have photocopied the pages using the clerk's photocopier available for that purpose. But as Murphy's Law dictates, the photocopier was broken. (This was a predicament because as you know: 1) the clerk could care less that the copier was broken; 2) state law does not permit one to remove the official records from the records room; and 3) it's a felony to remove any page or pages from the file in order to scan them through the feed slot of a portable scanner, for example.)

The only solution: a handheld scanner. Wisely, we sent the law clerk back, this time "armed" with a handheld scanner. She simply scanned the pages into the scanner's memory and then loaded them on to her notebook computer to confirm they were captured.

When she got back to the office she was greeted with joy, laughter and drool dripping from our mouths; we attached the conflicting declarations as exhibits to our MSJ opposition. We proved to the court that the defendants were indeed lying and they lost their motion.

Breakfast Bagel and Scans, Please:

For years, I have started my day every morning by going to a coffee shop or café, ordering the same breakfast bagel and coffee each day and reading my daily copy of the San Francisco Daily Journal. I use my handheld scanner to scan interesting and noteworthy articles. When I return to the office, I just download the scans on to my computer and file them into my various online research databases, where I have folders for civil procedure, business law, competitive business litigation, etc.

Some history

Handheld scanners have been around since the early 1990's. The best was the HP Capshare E-Copier, a device that debuted in 1998 and IMHO (in my humble opinion) a handheld scanner technology

against which all others should be compared, even today's models. It was such an awesome device that my office had three of them. Still, HP's Capshare technology died years ago, as have so many others, largely because you have to scan (move it across paper) at a consistent speed and not deviate from a straight path. Without practice, that is hard to do. Enter a newer technology: the portable scanner.

What differentiates *handheld* scanners from *portable* models? A portable scanner is a device with motorized rollers that function to automatically feed documents into the scan mechanism, the part of the scanner that "takes a picture" of the document that you are copying.

Portable scanners operate more smoothly than handheld scanners because the powered rollers handle moving the document past the scanning tube. Scans are not distorted because there is little chance of operator error.

Knowing this, you might be saying: "What the hell, Mortimer, I'll just buy a portable scanner instead of messing with your crappy handheld model!" Before jumping off that bridge, consider these points:

- Portable scanners are larger;
- They typically require power from other sources, such as a USB port on a notebook computer; and
- Most importantly, scans can only be done by feeding documents into the scanner.

In my opinion, using portable scanners severely limits what you can do. For example, you can't scan documents in a court file or from a magazine – at least not without tearing the page from the magazine or ripping apart the court file. That brings us back to professional grade handheld scanners.

The PlanOn DocuPen handheld scanner

There are no longer many "professional grade" handheld scanners on the market. There is one, however, from *PlanOn Systems Solutions*, which provided me with a DocuPen handheld scanner for

review (go to <http://www.PlanOn.com/products/docupen/xseries> to see the latest DocuPens.)

I did not request a specific model and I was pleasantly surprised that the company sent a unit from its new X Series, which has refinements and improvements over the older DocuPen 800 Series. (By the way, PlanOn did not pay or bribe me to say this. Last year I purchased for \$200 an 800 Series DocuPen. I was so impressed with it that I contacted the company to ask for an updated X Series evaluation unit.)

Rather than my trying to talk about all the DocuPen's features and specs, go check out the Web site. In brief, here's what you'll find:

The X05 has maintained the small 'Pen-sized' profile but now packs in a lot more with 200MHZ computer processor, 64 MB of fast SD Ram, with a microSD expansion slot [up to 2GB] that make this by far the fastest ever.

Not only that, but it now includes Bluetooth for easy sending to your Blackberry, Windows Mobile smart phones, laptop and other devices.

Image quality up to 600DPI utilizing PlanOn's Crystal Line Contact technology provides extremely accurate imaging that far exceeds cameras and other portable scanners for professional reproductions of contracts, receipts, invoices, color pictures and more.

PaperPort SE software is included, which is a great image editing and organizing tool for all your DocuPen scans including letters, receipts, pictures, business cards. Paperport also integrates with your Outlook, Word, Excel and other applications, making your life more efficient.

What is the size of the DocuPen? Well . . . think breadstick. The DocuPen's length is 8.9 inches and it is .5 inches round. And it weighs a paltry 2.5 ounces. Pricing: Depending on model, \$299 to \$400. Keep in mind that street prices will eventually be lower. For now, since the X Series is new, prices on Amazon and eBay are not much lower than on the manufacturer's Web site!

Online are some sample scans I made using the DocuPen X05. Note: the scanner was set on max quality.

- Color photo: <http://litigationuniverse.com/pmdocupen1.jpg>



• B&W document (“court record”): <http://litigationuniverse.com/pmdocupen2.jpg>

• Newspaper (Daily Journal): <http://litigationuniverse.com/pmdocupen3.jpg>

• Magazine article: <http://litigationuniverse.com/pmdocupen4.jpg>

WARNING

For this article I thought it best to put this warning in a separate section so that you will take heed.

Never forget that handheld scanners cannot perform as well as desktop scanners nor portable scanners that have feed mechanisms that handle the tricky part of scanning, moving the scanner tube (the camera lens, so to speak) over a document.

If you read any user review of handheld scanners, one complaint will be common among them: scans are lousy. But the poor-quality scan is not necessarily a device flaw; it’s because the user does not know how to scan with a handheld scanner.

The handheld scanner document copying process requires you to properly move the device over the document being copied. Unfortunately that is difficult to do if you do not pay attention to what you are doing. For this reason, it’s a good idea to practice scanning before scanning an important document. This means you should not wait until a critical moment when you need to scan a document to first learn how to master the scan technique.

Some criticisms

I’m not for sale at any price, and especially not for a free scanner. So here are my criticisms of the DocuPen.

• The battery is too small. It does not provide much power. To compensate, the device powers down after about ten seconds of inactivity. To scan another page you have to turn the device back on. That’s a hassle, to me at least.

• I could not get the software drivers to work on any one of three different

computers. That should not happen with any device. As a workaround, I simply removed the microSD chip, placed it into a thumb drive and accessed the chip’s content that way. I prefer that method anyway, since it’s far better to access the raw files via Windows Explorer rather than to fool around with software included with a device.

• The end of the cable that connects to the DocuPen is proprietary; the other end, the one that connects to a computer, is USB. I don’t know why DocuPen went with a proprietary cable instead of a now-standard mini or micro USB cable. The major problem with proprietary cables is misplacing or damaging them. A visit to PlanOn’s Web site confirmed that it is a hassle to get a replacement cable. On DocuPen’s Web site I did not see where the company was selling spare cables.

Some random usage tips

• Most handheld scanners scan documents into jpeg format. Paperport and other software (even freeware) easily can convert image DocuPen files into any format you want, including PDF.

• Some California Superior Court clerks will tell you that you cannot use a handheld scanner to make copies. That is not true. You have the right to copy documents with any means at your disposal, as long as you do not remove pages you intend to copy from the court’s file. If you are told you cannot do so, ask for a supervisor. Politely ask the clerk how scanning a copy is any different than making a physical photocopy, especially since both use the same technology.

• The DocuPen is a delicate piece of electronic equipment. The part that is most susceptible to damage is the underside, where a piece of easily-shattered glass protects the easily-broken neon tube looking “thing” that does the scanning. Don’t drop it!

• A second fragile component is the USB cable tip. You can easily damage the tip by forcing it into the port the wrong way. If you damage the cable, you need to

buy another. I suggest you buy a backup cable to have on hand if you damage the one that comes with the scanner. While you don’t need the cable to transfer documents off the scanner, you need it to charge the DocuPen.

• The DocuPen charges via a computer’s USB port. If you have a BlackBerry AC wall charger that has a port for a USB male plug, you can charge the DocuPen with the BlackBerry AC wall charger. The scanner will charge faster using an AC wall charger (make sure the charger is 5.5 volts or less; that’s the voltage output of a computer’s USB port.)

Scan techniques

The key to good scans is to make sure the area around the document is free of obstructions. Make sure that the scan is at the correct speed and straight. In fact, that’s the bane of handheld scanning, making sure the speed is constant and that you don’t move the scanner around to where the scanned document is wavy or otherwise distorted.

Always make multiple scans. Just like the photographer who takes multiple shots to get one good picture for publication, you should make three scans of the same page to increase the odds that one of the three will be acceptable.

Conclusion

IMHO handheld scanners will always have a place in the trial lawyer’s office. If the DocuPen preserves a critical piece of evidence or helps you at trial to get in a critical exhibit for the jury to see without losing your “Perry Mason” moment, doesn’t that make the handheld scanner a smart purchase?

The fact is you never know when you might need a handheld scanner. So purchase one, practice using it (mostly getting your scanning technique down) and keep it “holstered” for use when duty calls.

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