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Legal Information Management: making information available to lawyers.

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Abstract

Large Law Firms have to deal with huge amounts of information. Typically they will have a central library, with additional resources for individual areas of law. A law library will typically contain Law Reports, Journals and other printed information that does not lend itself easily to computerisation. However, internal 'Know How' systems are often already computer based. The degree of computerisation may range from a simple word processed document Index to articles and internal documents that exist in paper based form, to a complex database with direct links to electronic sources.

A major problem is that such systems often grow in a disparate manner. Only a few individuals may have enough expert knowledge to use them effectively. Furthermore, a lawyer from one area seeking information in a different specialised area of law is likely to find his task overly difficult if the information retrieval mechanisms are different from that to which he is accustomed.

The growth of the Internet started a trend back to a more client/server-orientated approach to computing in the corporate environment. One of the great benefits of the Internet, and in particular the World Wide Web is that information on all screens is presented through an Internet Browser interface. The growth of interactive web technologies means that it is now possible to present a series of applications with the same "look and feel", all running in a Browser such as Netscape navigator or Internet Explorer. When in the past it may have been impractical to give no more than a few people access to a large database now many users can query the database directly from an HTML page in a browser via a private Intranet.

An Intranet uses exactly the same technologies as the ubiquitous Internet, but is only accessible to a specified group of users, (typically within an organisation). The idea of using a Browser as the user interface to as many applications as possible is a beneficial one for both the user, who only has to get to know one basic system, and from a technical point of view, as maintenance and support costs and time are much reduced.

This paper will seek to examine some of the technologies that may be used in order to make the management of information. This will require an examination of the types of information encountered, established systems of information management and the requirements of lawyers with particular reference to information retrieval.

Introduction:

"Knowledge Management" has become the buzzword of the late 90s for IT Professionals and Managers alike. As always, there are the innovators and then the followers. There are as yet few legal firms in the UK using systems that fall in to the latter category and even those are not really using the systems to their full potential alone to their full potential. This paper explores the possibilities of the latest ideas and how they can be useful to lawyers.

Background:

One of the most succinct definitions of Knowledge Management reads as follows:

"Knowledge Management is simply the process of identifying and capturing corporate expertise and making it available to employees when they need it"

[Tim Miller, New Media Resources, San Francisco]

Knowledge itself can be split into two categories: Explicit Knowledge is that which can be codified, electronically stored and transmitted; Tacit Knowledge is that which is personal and context specific.

Law Firms can be categorised as 'Knowledge Organisations'. Large amounts of Explicit Knowledge are already available in electronic form from third parties. Many suppliers of legal information already use CD-ROMs to deliver their product to the lawyer. Available systems include databases on specific areas of law, traditional series of Law Reports, huge on-line databases such as LEXIS and Library Management Systems, for those firms lucky enough to have a resource large enough to justify it, to name but a few.

Many Law Firms will already be using some sort of Information Management strategy to get this information to their lawyers. However what Law Firms often neglect is the organising and reusing of internally generated knowledge. Many Lawyers will spend a large part of their time reinventing the wheel when the information or expertise required is already present within the firm. Even more difficult to manage is the situation where the information already exists in the files of other lawyers within the firm. This is Tacit Knowledge. This sort of knowledge ultimately differentiates the work of one firm from its competitors. Sharing this knowledge would therefore seem to be a sensible strategy.

At its simplest level, any internally generated document or piece of information that a lawyer deems might be useful to others would simply be placed in a paper file and indexed. However, a simple analysis of the basic requirements of a Knowledge Management or Knowhow System shows that this is a rather inadequate approach to take a Law Firm in to the 21st Century.

What should Law Firms be trying to achieve?

The following appeared as the first paragraph of a job advertisement for members of the Intranet Development Team at Clifford Chance:

"Radically changing the way an organisation operates is a challenge, but when that organisation is poised to become the world's premier Law Firm, it's a different proposition entirely. We're investing in state-of-the-art on-line services that will save lawyers enormous amounts of time. Finding legal precedents or financial information about a company will take lawyers seconds, wherever they are in the world. To achieve this we need IT professionals with accomplished skills and creative flair."

[The Guardian, 4 March 1998]

This is a good starting point for examining the types of systems that leading firms are looking to implement. Such ideas will eventually trickle down to the smaller players. The essence of the challenge is to provide fingertip access to information in a seamless way, from internally generated Knowhow to external systems provided by third parties.

Why do Law Firms need to change in this way?

Richard Susskind, author of "The Future of Law", argues that as we are on the verge of becoming an information society. We are also on the verge of what he refers to as a shift in legal paradigm. That is to say that IT will not only facilitate the more efficient practice of law as we know it, but that the new order imposed on society and law by IT, will eventually lead to a major change in the role of solicitors and barristers that will be so far reaching as to make them virtually unrecognisable in the eyes of today's lawyers.

The single unifying theme in Susskind's work is that the lawyer of tomorrow will not just be an advisor on specific legal problems. Rather he will be an advisor involved at the grassroots of business decisions. The law will not be called upon just to settle disputes, but the lawyer will take a more proactive role, pre-empting disputes. This he sees as the latent legal market, the concept of the nineteenth century "man of affairs" updated for the twenty-first century with lawyers using all the new information services available to them to advise on all aspects of business.

He splits the paradigm into two areas, legal service and legal process, further sub dividing the two as shown in the table reproduced below:

TODAY'S LEGAL PARADIGM	TOMORROW'S LEGAL PARADIGM
LEGAL SERVICE	LEGAL SERVICE
ADVISORY SERVICE	INFORMATION SERVICE
ONE-TO-ONE	ONE-TO-MANY
REACTIVE SERVICE	PROACTIVE SERVICE
TIME-BASED BILLING	COMMODITY PRICING
RESTRICTIVE	EMPOWERING
DEFENSIVE	PRAGMATIC
LEGAL FOCUS	BUSINESS FOCUS
LEGAL PROCESS	LEGAL PROCESS
LEGAL PROBLEM SOLVING	LEGAL RISK MANAGEMENT
DISPUTE RESOLUTION	DISPUTE PRE-EMPTION
PUBLICATION OF LAW	PROMULGATION OF LAW
A DEDICATED LEGAL PROFESSION	LEGAL SPECIALISTS AND INFORMATION ENGINEERS
PRINT-BASED	IT-BASED LEGAL SYSTEMS

[Susskind, p286, 1996]

The left hand side of the table sums up the legal profession as it is today and the right hand side is an indication of the state of affairs once the IT revolution has run its course.

According to Susskind, the paradox of legal services today lies in the fact that in order to know when best to call for legal advice one must have some knowledge of the law itself:

"Here we have mature legal systems that have in significant ways become alienated from citizens,

from businesses, from lawyers and from society itself. Such are the pressures, however, that I argue that we are on the brink of a fundamental shift in the way in which legal service is offered and justice is administered. For if the law is to remain the principle means of social control, it must be manageable, available, realistic, workable and interwoven easily with all aspects of social life. If we look reality straight in the eye, currently the law is none of these."

The volume of legislation has become so large that no one person may have a mastery over anything more than a small part of it, yet we are all expected to live and work under the whole of the law. Susskind argues that this problem, that he terms 'the alienation of law' will be overcome with the advent of the Information Superhighway and the Information Society. The problem now is that our ability to input and store information in computer systems far surpasses our ability to effectively search for and retrieve the information that we require. This Susskind terms 'the technology gap'. Once we learn how to manage all the information successfully then the ground will be set for a shift in legal paradigm. Now, almost three years after his book was first published, the most innovative firms have almost succeeded in closing the gap. If Susskind is right those firms who have not yet started to implement new Information Systems will have to move fast if they are to react to the paradigm shift and remain in business.

Types of Information:

Internal Knowhow systems:

The vast majority of documents are now produced electronically. An internal Knowhow system should therefore, allow users to search and retrieve documents together with possible links to the full text of those documents displayed on screen. Where there is no electronic copy an abstract should be presented with a record of the physical location of the document so that it can be retrieved.

Much has been made of the possibilities of full text searching. One only has to look at the popular Internet Search Engines such as Altavista and Yahoo to prove that this is not always the most efficient way of searching through a large population of documents. In order for lawyers to find quickly the information they want, some sort of structure must be applied to the data. Indexing is the key to an efficient system. A database containing some more structured information about the document, perhaps splitting them up into areas of law and categories within those areas is the obvious way to do this.

As a first step users can search through the database for records containing the information that interests them. They can then link to the full text of documents where they exist in electronic form or find the actual physical hard copy.

Searching can also be made available on the full text of the documents although this is likely to be less reliable than searching the actual database.

The indexing process requires some standardisation and quality control, especially in the production of abstracts. It is important to ensure that these abstracts contain enough relevant information for the lawyer to make a judgement as to the utility of the document. A common ongoing problem is also the reviewing of Knowhow information that may become out of date as the law changes. It is vital that a system should be put in place to take this in to account.

Know-Who Systems:

In a large organisation it is often difficult to identify another person who has expertise in a particular field. There may be a need to ask for advice or even to pass details of a client who is interested in using that person's perhaps unique services. In these sort of examples it becomes obvious that there should be an accurate up to date skills database of lawyers and other professionals in any firm that

wishes to utilise corporate knowledge.

Such a Know-Who system should have areas to be managed centrally. These areas include telephone contact information, room numbers and the like. However, lawyers (or persons nominated by them) should be able to edit their own areas of expertise and interest. Many such systems also include sections on educational history and outside hobbies and interests. Although this information may be of questionable relevance, there is an argument that it encourages individuals to use the system. If possible a photograph of the person should also be available so that one can put a face to the name.

Client Interest Systems:

Large Law Firms will tend to have specific large corporate clients for whom they undertake a wide variety of work in different areas. It may therefore be useful for lawyers to see just who is dealing with which clients and the kind of work being generated, subject to confidentiality safeguards. More generally, links to external web sites and other articles offering business information of interest, organised on a per client basis is also a useful resource.

Clearly there is a link between the Client Interest System and the Know-Who system. One should be able to link between the Client Interest information and the lawyers who work with them and vice-versa. Documents in the Know-How system should also be linked to their author and to clients if required.

Technology:

Whilst writing this I am aware that I work for a large organisation with greater resources than many firms. However, the argument that the cost of implementing a computerised information system is prohibitive to small firms is hard to believe. The cost of hardware and software is decreasing all the time. A firm needs to ensure that it takes correct advice on systems to avoid over-costing.

From the mid 1980s to the mid 1990s the trend in computing was away from the mini/mainframe environment with terminals or PCs. The cost of desktop Personal Computers continues to fall and a modestly specified PC will perform more than adequately in even the most demanding office environment. However, the downside of a desktop PC environment is that system management and support is much more difficult and therefore more costly. Most desktop PC are also vastly under utilised in terms of their processing and storage capabilities. Unsurprisingly therefore, the last two years have seen a move back towards a client-server environment, with the 'Network PC' and thin client technologies emerging. Any firm looking to install a new computer network should perhaps consider this approach. The Fee Earner who is not a regular PC user does not need an "all-singing, all-dancing" machine on his desk and can therefore make do with a low specification machine. By way of contrast, the support staff who spend all day using their PCs for word processing and other tasks may need higher specification PCs. I know of at least one London firm who have given all their Lawyers Wyse WinTerminals with no local storage or RAM whilst the secretaries have 'standard' PCs. The Lawyers are still able to run the latest Windows software and surf the Internet from a screen at their desks, but all the processing and storage is done on a central server. In this way hardware and administration costs are greatly reduced with little or indeed no impact on functionality.

Small networks are not difficult to set up and if required there are thousands of small companies all over the British Isles who can supply the hardware and expertise. Commercially available Information Management software packages are also on offer. We should remember that no system will ever be perfect, especially in its off-the-shelf state but any good piece of software will be sufficiently customisable to make it a useful tool. Again, there are many small consultancies that will offer this kind of service. Large firms, especially those with their own IT departments may have the

capability to develop their own in house systems, but this causes some problems, such as the continued maintenance or enhancement of custom written applications when key employees leave the firm. It can also unfairly heighten expectations of users.

A large part of the push back towards client/server systems has been the growth of the Internet, and in particular the World Wide Web. When one ignores the hype the WWW is a vast system of largely irrelevant information, through which it is very difficult to sift to find the useful bits.

However, the main attractions of the World Wide Web for developers and IT managers, are the technologies behind it. Intranets, using the same technologies and delivery mechanisms as the Internet but without the problem of 'Information Overload'. They are an excellent way to deliver information to end-users as all the information is presented through a consistent interface; the 'Browser'. The most common browsers are Netscape's Navigator and Microsoft's Internet Explorer. Information on the web is presented in Hypertext, which actually means text, images and even video and sound. The beauty of Hypertext is that by clicking on a 'Hyperlink' the user can jump from one page to another. The system is intuitive and therefore has the advantage of requiring little formal training to master.

Only eighteen months ago web page content was largely static. Every page intended to be displayed on the web had to be hard coded and edited in a similar way to a word-processed document. However, driven mainly by the desire for retailers to be able to sell their products over the web we now have the ability to create web pages with 'active content'. It is possible, for example, to query a database directly from a web page and display the results in the browser. This is ideal for Knowledge Management systems as it enables one to structure the information in a database, and present the retrieval system in a much more user friendly format using a web browser.

Integrating Third party Systems:

At present almost every system has a different interface and works with a different full text retrieval engine. The problem of interface is partly resolved by the fact that many suppliers are starting to offer Intranet versions of their products but the 'look and feel' of the front ends may still differ considerably. Ultimately, one full text search engine will emerge as the dominant product but meanwhile, one solution is to take the valuable part of the system, the data, in raw HTML format and apply a standard front end and search engine to it. The drawback of this method is that it requires some in-house expertise in order to integrate the systems. Most Intranet versions of products are still in the very early stages of development and it is still too early to decide whether or not they will integrate smoothly with other systems.

Resistance within the Firm:

From personal experience I would concur with the following:

"Reactions to the idea of sharing commercial information are comparable with the results of a personality test. Type 1 (the 'Jealous' type) believes that information is power but only when concentrated in their own hands. Type 2 (the 'Nervous' type) feels that most employees are incapable of contributing to decision making and won't understand strategic information; they are concerned that all of the company's knowledge will be handed to competitors. Type 3 (the 'Pessimist') thinks that all the employees are Type 1 or 2 so no one will want to participate in sharing their knowledge. Type 4 (the 'Believer') thinks sharing knowledge is a great idea that only requires a free market approach (creating knowledge demand and supply) to work."

[Wilson, Owen, [1998] "Knowledge Management. Putting a Good Idea to Work", Managing Information (ASLIB) March 1998, pp.31-33.]

Whilst the stated aim of Knowledge based systems may be to promulgate information throughout the firm this must be weighed carefully against the risk of data loss to competitors. It is true to say that if no precautions are taken, information that exists in electronic form is easily copied on to a series of floppy discs and removed from the firm. If someone has access to the system and a PC, in fact, it is virtually impossible to stop data theft in this manner. The level of security available can be tailored to meet the perceived risk. Clearly a certain amount of trust must be placed in the firm's employees. It can be easier to regulate access on a per user or user group basis. User access logging is also a useful tool, by way of monitoring the effectiveness and popularity of the different components of the system and discovering if a user has spent all night systematically copying all the information from the system.

Systems must also strike a balance between being "user-friendly" enough for novice users to understand while also providing extra features, such as more specific searches for the computer literate 'power user'. Demonstrations and training must also be given as necessary. Once a few people are convinced of the efficacy of the system, use will quickly spread through the rest of the firm.

System Support is also important. There must be enough resources within the firm to answer queries. They must help those who might otherwise give up the system, if it fails to come up to expectations.

Conclusion:

More and more Lawyers need more than just legal information. Careful consideration must be given to the existing systems of Information management within the firm. This investigation will determine whether it is better to develop an in-house system or to buy an external software application. The information within the system must be authoritative and accurate. This is relatively easy to achieve with internally generated documents, but when linking to external web sites it can be more difficult. To the lawyer the link between internal and external information stored in a Know-How system must be as seamless as possible. Speed of access is also a major issue for Front End Users. The worst scenario for a developer is to find that a system is not being used because it is quicker to pick up a telephone and ask someone else to do the research, than for the lawyers to do it for themselves. The system should contain links to as much relevant material as possible, be it financial, economic or just general news relating to clients.

Above all the system must present 'Value Added Information'. A list of document titles is useless, as is a long list of client's names and addresses. However, if a user can retrieve the full text of a document or link to information about a client and other work being undertaken on the client's behalf, then the system has much more added value. The productivity and reputation of the firm cannot fail to be enhanced by a more obvious competitive edge.

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