

**Improving the Client/Firm Relationship
with Technology**

By

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Surveys indicate that budgetary considerations still loom large among concerns of corporate law departments. The ninth annual survey conducted on behalf of Corporate Legal Times (see the July 1998 issue of that publication) indicates that such limitations constitute one of the top three biggest challenges that they face at present.

Many law departments are trying to establish “partnering” relationships with the outside law firms that provide so much of the legal service needed by their corporate employers. In that survey, departments highlight the need for better communication with those firms as part of that type of relationship. They also express a desire that the firms do a better job of leveraging their work product on behalf of the clients and that they be more efficient in delivering legal service. Unfortunately for the firms, that same survey shows that the departments grade the firms lower on those qualities than the firms grade themselves. Those responses suggest that the firms are not as good at partnering as the departments wish and as the firms would like to be. The survey also indicates that the departments believe that firms are not very good at providing value commensurate with the cost of legal service or at staffing matters appropriately.

Respondents also identified technology as a source of angst. The subjective descriptions of the top challenges over the next three years included several concerns about technology. Keeping up with the pace of technological change was listed multiple times.

If technology is viewed as a means to forge better partnering relationships between inside and outside counsel, the available hardware and software can be assessed more readily in terms of how it helps to solve those problems. In that way, money spent on technology will also help solve those other problems identified in that survey.

Change in the client/counsel relationship

Law departments have become much more assertive in recent years than they had been previously. This development is directly traceable to increasing restiveness on the part of their internal corporate clients. Business executives once accepted without question lawyers’ insistence that the practice of law is qualitatively different from the practice of other professions and that tools such as budgets, cost/benefit analysis and objective evaluation did not apply to their (*i.e.*, the lawyers’) work.

The standards by which companies operate in the last decade of the century no longer allow that accepting attitude. Senior management now demands that law departments approach the legal work much as they require research and development departments and other corporate functions to operate.

Law departments must operate in today’s environment. They must satisfy expectations similar to those to which other corporate service units must respond. They, in turn, are looking to law firms to adopt similar approaches, since the work performed by the latter is integral to the responsibility of the former.

At least partially in response to those pressures, law departments are trying to realign their relationships with law firms. They want those relationships to reflect a “partnering” approach. They are

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trying to use fewer law firms than they did previously. Simultaneously, they seek closer working relationships with the fewer firms that they plan to use (the combination of fewer firms and closer relationships with those firms is often called “convergence”).

What does the term “partnering” mean? Unfortunately, many use the term without defining it. Nonetheless, when you review the uses of the term, it seems that most people mean that the lawyers in a law department and the outside lawyers who represent that company will work together closely. This is something more than the reporting type of relationship that has existed for some time. The concerns over cost and, as importantly, demonstrating that the legal service is delivered cost effectively, have caused the inside attorneys to work together with the outside attorneys more fully. Collaboration might be a better label for the type of working relationship they seek.

How can technology help?

So what does that mean for lawyers? How can they use technology to help them address the changes in the corporate legal services market?

As lawyers (inside and outside) contemplate the technological future of their organizations, they should answer the following questions. What is the information that constitutes the backbone of the legal service? How is it applied? Who works with it and in what sequence? Who is positioned to generate those data most effectively and how can they be generated so as to be available for multiple uses with minimal re-entry? Who works together, regardless of the organization to which they belong?

There are many situations where lawyers within corporate law departments and their counterparts in the law firms that service those companies use the same information. They should have equal access to that information. If they need to work together closely (not in physical proximity necessarily), databases that can be shared should be developed. If they can collaborate to produce a common product, there are technology tools that will help them do so.

In the past two decades, the computer industry has developed so as to distribute computing power directly to the individuals who are best positioned to apply that power right to their work. Desktop PCs have the power once limited to central mainframes. Simultaneously, software developments now enable multiple users to work with the same information and data directly and share the load of developing documents and other intellectual products. These trends have tremendous potential for the legal industry, if they are fully applied.

For example, a recurring problem for law departments and law firms is the occasional conflict of interest for the latter. With the reduction in the number of law firms servicing one company (part of a convergence program), that might be somewhat reduced in frequency. Simultaneously, however, some companies are adopting policies on conflicts that incorporate all their subsidiaries and affiliates within the scope of what a law firm must consider for possible conflicts. The information on which firms must base their conclusions as to whether a conflict exists is in the corporation. To enable the firms to make more informed determinations about when a conflict exists and as to how serious it is, companies might contemplate providing their outside firms with access to databases of their corporate structures.

If firms have such direct access, they won't have to rely on inquiries of overworked in-house lawyers about different potential conflict situations. Distributing that information via shared databases empowers the outside firms and also puts the responsibility on them to check for potential conflicts. It eliminates the excuse that an in-house lawyer might have been unavailable or mistakenly led the firm to believe that no conflict existed. The law department will benefit from placing that responsibility where it belongs. The firm benefits from being able to check for potential conflicts much more readily and quickly.

Another example is developing form banks and archives of research memoranda. There are software programs that provide easy indexing and accessing capabilities. By entering materials in such an archive, and providing for direct access for all the lawyers and other professionals who might need to use or rely on that material, a law department and its outside firms will realize significant benefits. There will be

greater reuse of material that was developed at great expense (less “reinventing the wheel”). A law firm used by BASF used such software to create a research archive.

There should be greater consistency in the positions taken in multiple situations where such consistency can be important. If those materials are available to multiple law firms, the consistency is magnified further. If the documents can be accessed electronically (certainly possible over the Internet with appropriate security), the speed of access and reuse will be multiplied. DuPont has received considerable attention for its efforts to use technology to distribute information among its primary law firms (the relatively small number of firms that it uses for most of its legal work). The stated goal is that “by sharing documents on the [KnowledgeBase Network, the company] saves time and money by decreasing duplicative discovery, research and document production.” (See “A New Era: The DuPont Legal Model”, p. 29 (1996).) While at Prudential, I was developing an application on Lotus Notes for environmental litigation. That application was to be directly accessible by the team of outside law firms that we had assembled to handle that type of litigation.

Perhaps attorneys at multiple locations all need to refer to the same basic information contained in a manual or set of guidelines. If that information is distributed manually on paper, updating the information is tedious and problematic, because you need to assure that all updates are properly implemented in all locations. If the information is maintained electronically and the various members of the group are able to access it electronically from that central source, updating is complete when the single electronic copy is changed.

While I was a member of the Law Department at The Prudential Insurance Company of America, I worked with a technology consultant to load a litigation-procedures manual onto the department’s network. The software we chose would allow use from of the manual any of the regional offices of the department. The portions of the manual that had been created with the word processing system in the department’s network could be searched on a full-text basis. The manual included many materials that had been prepared before the word processing system existed, or had been located elsewhere. Those materials in the manual, while not subject to a full-text search, could be viewed as complete images (including handwritten marginal comments, if any). Future updates of the manual would be far easier and more secure than prior ones had been. Moreover, the software enabled me to create explanatory notes that accompanied the text of the manual, which notes could include additional commentary on the substance in the manual or answer common questions or provide cross references to other, related material. In short, the software allowed greater security and flexibility in the dissemination of guidelines and procedures than was possible in paper-dependent form.

If the technology that is now available is deployed intelligently, it can change how legal service is delivered to clients. While many law departments and law firms now use e-mail routinely, and they conduct research on the Internet, they have only scratched the surface of technology’s promise. Future decisions on technology should be made at least in part on how the candidate systems will help to bring inside and outside counsel together by assisting them to collaborate better and to assist lawyers everywhere to share and work with data and information necessary to their counseling function. Only by changing how that work is accomplished can the costs of legal service be significantly lowered.

Conclusion

These examples are only intended to suggest ways in which technology that is available today can be deployed in such a way as to enhance the team-building approach that is inherent in “partnering.” Technology can even allow multiple law firms to collaborate on the work of a common client, to everyone’s benefit. There are certainly other means to apply technology for that purpose. Experimentation would be appropriate.