Knowledge management: What's the fuss about?

System can offer all employees access to the information resources of an organization.

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"KNOWLEDGE MANAGEMENT." The phrase has entered the daily lexicon of the legal profession through the efforts of consultants and advisers. Is it merely the buzzword of the day? Is it just a fad, or does it have true, lasting significance? Can it benefit the legal profession? If so, how?

Knowledge management sounds grandiose. It's also vague. How can something as ephemeral as knowledge be managed in a way that is useful to the legal profession?

First, it helps to define terms. When discussing knowledge management, one is referring to the knowledge of an organization, rather than that of individuals. Second, the purpose of defining "knowledge management" is to assist an organization in finding a way to manage its intellectual assets.

Knowledge management has been defined as "the creation of systems or processes in a learning environment that allow all employees to have access to the information resources they need to develop the knowledge necessary to do their jobs."[1] It is important that the focus is on systems and processes. The knowledge is the material that becomes the subject of those systems and processes, much as news stories are the subject of a newspaper's production.

One element of knowledge management is the organization of knowledge pursuant to an understood taxonomy. The knowledge in a book consists of the words, figures and representations on its pages. The index and table of contents enable the reader to access particular components of that knowledge easily. Without that access, the reader is unable to find the particular knowledge that he or she seeks within the book, even when he or she knows that it is in fact somewhere in the book. In such cases, the knowledge, buried deep within the book, is of little or no use to that reader because he or she may have to begin to read the entire book in order to find the needed information. The index and table of contents are the means to overcome that problem.

A knowledge management system for an organization is similar to the index of a book. It identifies information that is available within the organization, categorizes that information, and provides a "road map" by which one can locate and retrieve that information and knowledge.

Who needs it?

Any organization that faces repetitive situations or tasks needs a knowledge management system. Any organization that experiences repetitive forays over the same intellectual ground needs a knowledge management system. Any organization that has uncontrolled legal expense probably needs a knowledge management system because such expense is likely attributable, at least in part, to an inadequate management of knowledge. In essence, an inability to identify existing knowledge and apply it to new problems or issues is the characteristic of an organization that does not have a functioning knowledge management system.

Ironically, organizations, such as law firms, that develop great expertise in specific areas—for example, particular types of corporate transactions, real estate law or wills—are in the greatest need of sharing, within the organization, the expertise and depth of knowledge they have developed, to avoid continually reinventing the wheel.

The knowledge in question can be of any variety. It might consist of case-specific data. It may reside in well-drafted documents from prior transactions. It might include information gathered from external sources in addition to internally generated information.

There are many benefits that derive from a good knowledge management system. An organization can achieve improved consistency in positions that it takes in different matters, and can do so with greater efficiency.

The importance of consistency of position is particularly apparent to in-house counsel, especially if his or her employer has been assailed before a jury for treating different customers, suppliers or others disparately. One method that some companies' law departments may have used previously to try to address that problem is the development of "form files" and standard approaches to repetitive tasks like due diligence. A form file is an example of a knowledge management system, albeit a rudimentary and inflexible one, that is focused on a narrow category of knowledge, such as documents. The benefits of such systems often have proved elusive. Maintaining the momentum of such an exercise is difficult.

A way to rein in costs

Another benefit of a knowledge management system is greater control over the cost of legal service. Every lawyers' product represents a considerable investment of money, time and other resources—e.g., the commitment of the time and thinking of business investment professionals. If a company can use and reuse the thinking that was applied to those legal efforts, it will realize a greater return on those investments.

Many companies have law departments that are geographically dispersed. They also use multiple law firms. The result is a large number of individual lawyers representing a single client with an identical goal. To achieve consistency and efficiency in that situation is difficult. Some companies seek consistency and efficiency through meetings. A law department may hold internal meetings—of groups of in-house lawyers or of the entire law department—at which the lawyers discuss issues that are common to their individual assignments. Some law departments convene meetings of their outside law firms to discuss recurring substantive or administrative issues.[2]

Such an approach has drawbacks. First, organizing such a meeting can be time-consuming and difficult. Merely identifying a convenient date for a meeting of individuals whose calendars are crowded with other tasks and responsibilities that are often time-sensitive can tax anyone's patience.

Second, a meeting is a transitory event. Once it is over, it may recede from the memories of the participants with short-lived impact. Its participants may forget some of the specific advice and instruction imparted at the meeting. Applying the lessons of the meeting to day-to-day work that follows it is often difficult. Something more permanent and more easily applied on a day-to-day basis is necessary.

A knowledge management system can open the lines of communication within an organization and between an organization and others. It can simplify the work of the individuals in the organization and make their efforts more effective. By freeing them from the difficulty of locating existing information, it allows them to focus more on completing their work.

> A knowledge management system is similar to a book index; it can identify, sort and lay out a map to information.

Psychological barriers

The impediments to achieving a true knowledge management system are more organizational or sociological than they are technical. There is software available that permits an organization to systematize the information that it possesses. It's even feasible to create a paper-based index to all the files, information and data in an office, although a paper-based system would quickly become unwieldy.

Some hurdles to establishing a knowledge management system include expense; politics and power struggles; the stamina of the individuals who wish to implement the system; and lack of a uniform vision.

Any knowledge management system requires expenditures—perhaps significant ones. Software comes with a price tag. Perhaps some computer hardware will be needed to implement a knowledge management system.

In law firms, compensation systems may not be structured to recognize efforts to share information throughout the organization, particularly with members who are less powerful than the sharing individual. In law departments, there are less direct links between knowledge and compensation, but they exist.

A knowledge management system is not implemented easily or quickly. Moreover, its success can be measured only over time and with consistent effort. Payback is not going to be immediate. Therefore, when starting down the knowledge management road, expect to travel a distance without recognizable

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Legal Tech Chicago, Nov. 13-14

The following is the schedule for Legal Tech Chicago, to be held at the Sheraton Chicago Hotel & Towers. For more complete information, go to www.legaltechshow.com/chicago00.

Monday, Nov. 13

8:30 a.m.-10:00 a.m.: Tracks 1, 2: Keynote Presentation: What Corporate Counsel Look For in Outside Attorneys

Track 3: The ASP Revolution: Ready for Mid-Sized Prime Time?

Track 4: The 7+ Habits of Highly Organized Lawyers

11:00 a.m.-noon: Track 1: Knowledge-Sharing Systems in the Law Department: A Case Study

Track 2: Wireless Personal Digital Assistants—What's Best for Your Practice?

Track 3: Remote Access Strategies: Virtual Lawyering Is Here and It Works

Track 4: Becoming WPA! (How to Be Word Processing Ambidextrous)

1:00 p.m.-2:00 p.m.: Tracks 1, 2: Magazine Briefs—Full Color Diagrams, Demonstratives and Images

Track 3: Managing and Surviving the Technology Rollout: From Updates to Overhauls

Track 4: Build a Small Firm Web Site—LIVE!

2:30 p.m.-3:30 p.m.: Track 1: Making the Most of Electronic Evidence

Track 2: Approaches to Knowledge Management in Major Law Firms

Track 3: The Electronic Empire: WAN Issues for Midsize Firms

Track 4: Small-Firm Lawyer's Essential Guide to Litigation Technology

4:30 p.m.-5:30 p.m.: Track 1: What's New on the Net?

Track 2: Records, Document and Knowledge Management: The Hidden Strategic Opportunity

Track 3: 60 Hot Legal PC Tips and Net-sites in 60 Minutes

Track 4: A Law Practice in the Palm of Your Hand: Confessions of Palm Pilot Fanatics

Tuesday, Nov. 14

9:00 a.m.-10:00 a.m.: Tracks 1, 2: Opening Session: Internet Fraud: What Top Management Needs to Know

Track 3: The 3 Other Nets: Intranets, Extranets and Beyond

Track 4: 60 Hot Legal Techno Tips and Netsites in 60 Minutes for Small Firms

11:00 a.m.-noon: Track 1: Reinventing Legal Cost Management with High-Tech Tools

Track 2: Best Practices in Litigation Support

Track 3: Suite Wars, Episode 1: Microsoft Office 2000 v. Corel WordPerfect 2000

Track 4: Protecting Your Systems From Techno Disaster!

1:00 p.m.-2:00 p.m.: Tracks 1, 2: Becoming One Firm: The Technology Challenges and Lessons Learned

Track 3: Technology and the TQL (Total Quality of Life) Factor

Track 4: Law on the Road: The Mobile Lawyer's Survival Guide

2:30 p.m.-3:30 p.m.: Track 1: Implementing the ASP Strategy

Track 2: Case Examples in Leveraging the Internet

Track 3: Information Everywhere? Case Management Systems Shootout, Part 1

Track 4: Case Management 101!, Part 1

4:30 p.m.-5:30 p.m.: Track 1: Application Service Providers in the Legal Profession—Focus on Large Law Firms and Law Departments

Track 3: Case Management Systems Shootout, Part 2

Track 4: Case Management 101!, Part 2

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returns on investments of money and energy.

Too often, the pursuit of a strategy that one hopes will improve the performance of an organization is stymied by discordant views of what is needed and what is the ultimate goal. If the subject is as ephemeral as knowledge and its management, that problem is magnified. Creating a consensus on the goal and the importance of reaching that goal is a significant challenge to one's management and persuasion skills.

Hoarding knowledge, power

Everyone has heard the phrase "knowledge is power." It's particularly true for a profession, such as the law, that revolves entirely around intellectual product. Knowledge is an essential component of legal practice, so it follows that the more knowledge one has, the greater one's stature. As a result, in many law firms and law departments, knowledge is hoarded. To share information is to relinquish control over something of value. Just as partners within a firm often jealously guard their clients, if individuals in an organization are too jealous of each other or too insecure to share knowledge that underlies or defines their individual status in that organization, it will be difficult, if not impossible, to create an effective, functioning knowledge system.

Despite these difficulties, it is possible to design and implement a knowledge management system. Some technology tools are more limited in their scope and impact than others.

For example, document management products allow an organization to capture knowledge in documents drafted for transactions and litigation, and later to access and reuse those documents for subsequent projects or assignments, with or without changes. Other products are designed to collect the information relevant to a particular case—e.g., witnesses, events, evidence—and organize it so that the lawyers can utilize it at later stages of the litigation, such as when they are preparing motions to the court.

Other products are more comprehensive. They are intended to provide the mechanism by which a law firm or law department can capture and access a much broader array of knowledge that comes within that organization's grasp. Whether known as "portals," Internet-based workplaces, one-stop law department resources or something else, they contain indexing functions, search functions, databases, communication links and other tools to facilitate the search for and use of legal knowledge.

Resistant to change

The more difficult part of implementing a knowledge management system consists of organizational or sociological difficulties. Law firms are by their nature conservative organizations. A conservative management approach does not strongly support untried solutions to existing problems.

Lawyers are also trained to operate independently. From the first day of law school, the aspiring lawyer spends a great deal of time in lone pursuit of the answers to the problems and questions posed in class. The competitive nature of law school strengthens the urge to operate solo. It should surprise no one then, that in practice, lawyers have some difficulty seeing their roles as members of a team devoted to developing a collaborative solution to a problem and that sharing information and knowledge is a preferred approach to analyzing and solving clients' problems.

The most effective knowledge management system is one designed to compensate for those natural tendencies of lawyers. Perhaps a law firm's compensation structure creates disincentives to the sharing of information. If so, a knowledge management solution cannot succeed if that compensation structure is unchanged because the lawyers are likely to retain their individual stores of knowledge rather than submit them to a system designed to disperse that information throughout the organization. Crediting individual attorneys for their efforts to share their knowledge and information with others in the organization may be appropriate.

> ## The most effective system is designed to compensate for the tendencies of lawyers to act independently.

The means of entering knowledge into the system must be as simple as possible. If all material is created electronically from the start, it's far easier to incorporate it into a searchable, online environment than if it is created on paper and must later be scanned in or otherwise converted into an online format.

The means of entering the knowledge into the system must also be available at all times and from almost anywhere. If material must accumulate at certain points in the organization to await later entry or conversion, it may never be converted as backlogs grow.
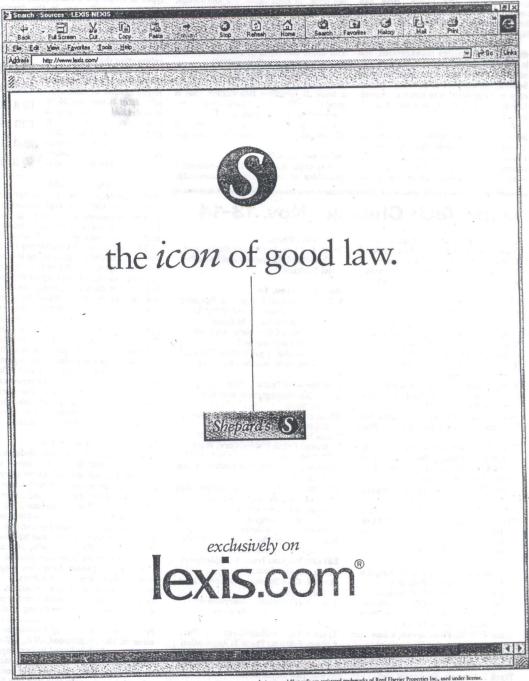
The knowledge of an organization in the legal profession is an extension of that organization's human capital. An effective organization is one that can use and reuse that capital most effectively and most efficiently. Capital that merely accumulates is not optimally utilized.

For that purpose, an effective knowledge management system is a necessity. A careful approach to the creation, assembly, organization and access to knowledge throughout an organization can reap considerable dividends that will far outweigh the out-of-pocket costs of the effort.

(1) See Nina Platt, "Knowledge Management: Can it Exist in a Law Office?" a two-part article that appeared online at www.llrx.com/features/km.htm and www.llrx.com/features/km.htm.

(2) A law department well-known for such efforts is that of E.I. du Pont de Nemours. See Sager, "Toward a Common Goal," Docket, July/August 1997, at 12. **NLJ**