

Best Practices in U.S. Law Department Use of Technology

To better manage legal spending and the legal risk exposure of their organisations, law departments in the United States have implemented technology solutions to provide important management information, and tools to communicate with clients and outside counsel.

The growing trend toward creating global corporate law departments has also led to the implementation of web-based technology solutions, designed to connect lawyers dispersed across different locations, time zones and languages.

Leveraging Internet technology, law departments are implementing matter management systems, e-billing solutions, knowledge management systems and extranets. Law department demand for technology solutions is satisfied by a large market of legal technology solution providers, and a growing market of law firms focused on delivering e-business solutions to their clients.

Law Department Management Trends

To manage legal spending, General Counsel focus on three key areas. First, General Counsel focus on the management of outside counsel. Over the past decade, there has been a strong trend among U.S. law departments to concentrate their outside legal work among fewer firms, and negotiate discounted, or alternative billing arrangements based on the increased work provided to those firms. Second, as in-house lawyers are less expensive than outside counsel, law departments examine opportunities to bring more work internally. Third, a law department will determine whether cases should be settled rather than litigated, based on a corporate cost/risk analysis.

Beyond managing current legal matters, law departments also play a key role in managing legal risk. Traditionally, in-house lawyers played a reactive role, becoming involved in the business once a legal problem had arisen. Recognising that many problems can be avoided if legal counsel is sought at an earlier stage, in-house lawyers have assumed a more proactive role in their organisations. Becoming involved at an early stage in business transactions has changed the role of the in-house lawyer. Today, the in-house lawyer plays a more prominent role in facilitating business decisions by identifying high legal risk areas and educating the business on potential legal risk associated with new business transactions, in addition to managing existing matters.

Law departments need information to understand the legal issues impacting their organisations, and effective means of communication to work closely with the business and with outside counsel. Technology systems provide law departments with the information and communication tools they need to operate at an optimal level.

Matter Management Systems

The matter management system is a technology tool that gives law departments access to critical decision-making information. Widely used in the United States, matter management systems are databases storing all relevant information relating to a case or matter. The matter management system will store details about the plaintiff, defendant, outside counsel, opposing counsel and any third parties involved. Comprehensive financial information is stored, including fees and expenses, budget and settlement offers. These systems also enable lawyers to record notes on a matter. Further, most matter management systems integrate with document management systems, enabling lawyers to associate all relevant documents with a matter. For a lawyer managing a case, these systems replace the paper file, with the lawyer managing the progression of a case or matter through the matter management system.

Typically, a law department will use a matter management system to record all cases and matters that would have traditionally warranted the opening of a paper file.

While the matter management system provides lawyers with a single user interface to all information relating to a case or matter, their greatest value is in the management information they provide to General Counsel and law department administrators. With information about all cases and matters impacting an organisation, stored in one database, a law department can perform powerful analysis of the state of its legal function. Typical financial reports include analysis of costs by case type, law firm, mix of in-house and outside resources, and time. This information will help a General Counsel in its management of legal spending by making decisions about the optimal mix of in-house lawyers and outside counsel, and the right outside counsel management program.

Similarly, the information stored in these systems can help a General Counsel manage legal risk by understanding the composition of its organisations' legal work. Typical legal risk management reports involve analysis of the number of cases by product, division and area of law. This helps a General Counsel to identify areas of high legal risk to an organisation – the first step in addressing these risk areas.

The trend among matter management system providers is to build web-based tools, especially popular among global or multi-location law departments. In addition, given the complex nature of the information captured in these systems, they are typically heavily customised to suit a specific law department's information needs.

E-billing Systems

Another means of understanding the cost of outside counsel is to standardise the format of bills received from outside counsel and receive bills electronically into a single reporting system. In 1995, the American Bar Association and the American Corporate Counsel Association, in conjunction with Price Waterhouse, developed an industry standard of task level billing codes. Known as the Uniform Task Based Management System (UTBMS), the code set provides codes for each task level associated with legal work, enabling law departments to understand their legal costs at the task level. UTBMS has been incorporated into most matter management systems and e-billing solutions.

Best practice law departments now demand that their law firms produce bills using UTBMS, or a variation of the code set, and then submit those bills electronically to the law department. As part of its outside counsel management program, a law department sets rules about the costs it will tolerate for specific tasks performed by a law firm. Rules may include agreed mix of partner and associate time on a matter, agreed hourly rate of each level of staff involved, and approved administrative and travel charges. Each bill is then checked against the defined rules to identify any discrepancies.

While some law departments have developed home-grown e-billing systems, there are a number of third party vendors, offering secure extranet solutions. Law firms e-mail bills to the third party vendor. The bill is then passed through the vendor's software to check that the bill falls within the rules determined by the law department. If the bill passes the test, it is forwarded on to the law department for payment. Many law departments have realised an immediate benefit in significantly reducing the administration that surrounds the review and approval of bills.

Further, since bills are now stored in a database, law departments can generate reports on the billing data, and perform sophisticated analysis of the costs associated with legal work handled by outside counsel. Like the reports generated by a matter management system, this information is used to determine the composition of an organisation's outside counsel management program.

Intranets and Knowledge Management Systems

As law departments aim to play a more proactive role in their organisations' business, they recognise the power of communication tools such as the corporate intranet. A law department intranet site provides a forum for in-house lawyers to market their services to their organisation, by providing useful information and services to their business clients.

The most basic law department intranet site will provide a directory of in-house lawyers, policies impacting the organisation, and answers to frequently asked questions. Beyond providing an organisation with a roadmap of the law department, it also aids in the education of legal risks impacting the organisation.

Many law departments have also realised the intranet's potential to provide a more efficient service to its clients. Some law department sites include basic template contracts that a business unit can download and use, without recourse to the law department. Another example of a best practice law department intranet site utilises workflow technology to accept on-line requests for work by business units, which can then monitor the progress of that request via the intranet site.

Law departments have also leveraged the corporate intranet to build sites accessible only to the staff within a law department. These "private" sites are used to post precedent and best practice documents, as well as to share information among law department staff. Typical among global law departments, these private intranets provide an important means of building a cohesive law department that provides consistent legal advice, regardless of location. This use of the intranet is the precursor of the corporate law department knowledge management system.

A knowledge management system provides an integrated view of the various disparate information sources used by an organisation, delivered through a single user interface. For a law department, this will mean access to cases and matters, documents, precedents, policies, people, and financial information. Its information sources may include a document management system, matter management system, databases, groupware, e-mail, contact management system, and external information providers such as research subscriber services and the Internet. Using a customised taxonomy, the knowledge management system provides lawyers with all information relating to a topic on one screen. This information may be sourced from several information sources. Law departments are now implementing enterprise information portals as their single user interface, integrating information stored in the many systems and information sources it uses.

As with the private law department intranet, its knowledge management system enables a law department to leverage the intellectual capital of its lawyers, reduce duplication of effort, and facilitate consistency in the quality of legal services provided to its organisation. This can translate into quicker turnaround time in delivering legal services to the organisation, as well as a marked reduction in legal spending by leveraging prior work product.

Extranets and Beyond

As law firms implement e-business services, corporate law departments are now able to access their outside counsel's information resources and work more efficiently on legal cases and matters. The most prevalent e-business service offered by law firms is the extranet. A secure web site accessible only to lawyers and clients, extranets provide collaborative workspaces for the parties involved in a transaction. First generation extranets provide access to legal information provided by the law firm. The latest generation extranets operate as a transaction management tool, by providing all information relating to the progress of a transaction. In particular, law firms use these extranets to post documents for client review and to provide clients with up-to-date legal news impacting the transaction.

In addition to law firm e-business initiatives, the market for legal B to B websites is rapidly expanding. Example websites offer bulk procurement services for the law department, as well as reverse auctioning facilities, to enable law departments to post tenders for work and have law firms compete for the work.

The Future

In recent years, the strong trend among law departments has been to implement matter management systems to capture and leverage information relating to the portfolio of cases and matters impacting their organisations. Law departments are now focusing on ways to leverage the matter management technology. For example, they are extending access to their systems to key clients within the business and outside counsel. In addition, law departments will continue to focus on utilising the information stored in matter management systems to monitor the legal issues impacting their organisations, and use this information in forming the strategy of the legal function. Matter management systems will be further leveraged by integrating with other systems, such as document management systems, e-billing systems and enterprise information portals.

While implementing matter management systems has been the main focus of law departments in recent years, attention has now turned toward finding ways to leverage the intellectual capital of a law department. Knowledge management has become, and will continue to be, a key focus of U.S. law departments in the near future.

Finally, the opportunities created by Internet technology have just begun to surface for law departments. Increasingly, law departments will look to their outside counsel and third party vendors to provide the information and communication tools necessary to successfully manage their organisations' legal function.

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