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Building the Better Mousetrap:

Technology, Process and Organization for the Corporate Law Department

Curt A. Canfield

Mr. Canfield is a consultant with Hildebrandt International, a management consulting firm for professional services organizations. He can be reached at 732 560-8888 or via e-mail at cacanfield@hildebrandt.com.

Information, once a welcome advantage and critical resource in building a case strategy or packaging a transaction for corporate counsel, has evolved from a drinking fountain to a fire hose or, to put it another way, migrated from a treasure trove into a morass. Just as turn-of-the-century lawyers had to acquire and apply new paper production, storage and retrieval technologies (typewriters, file cabinets, preprinted forms and index cards) and the requisite processes and the people (clerks) to deal with an increasing load of specialized information, today's corporate law departments must find ways to harness the flood of computer generated information to meet business and professional goals and objectives.

While corporate counsel has, for the most part, provided networked computers on

every desktop, they have not always found the best way to use them and integrate them into their daily professional and business work processes. And this causes three problems: it generates two pools of information resources (paper and silicon) that are inefficient to use and maintain, it requires two sets of skills to navigate and use effectively; and, it either defers or defeats the strategy behind the new technology investment.

The traditional difficulty seems to be that there has not been any one person or any one working committee that can blend together an understanding of: (1) how the technology works or what it can do; (2) the processes behind managing a law office and practicing law; and, (3) the organizational or staffing to effectively practice law or manage a law office. This article is intended to function as a brief guide to harnessing their information and human resources to process cost-effective and responsive legal services.

The best way to accomplish this goal is to look at how each of these three dimensions

(technology, process and organization) relate to one another in a casebook example. While different areas of law have different requirements, all types of matters share some common elements in their lifecycle from file opening to file closing. We'll first talk about a "baseline" organization model, then about a comprehensive law office technology portfolio and, finally, a walk through of a "typical" matter's lifecycle. Our end goal is to illustrate how the proper mixture of process, organization and technology can:

- Provide a high level of service to the corporate lines of business.
- "Liberate" the lawyers from paper shuffling (and searching) and focus them more on practicing law and co-managing the business.
- Effectively manage the cost and effectiveness of outside legal and related services.

The Organization Dimension

Just as yesterday's (and many of today's) law offices have a file room, we steer our

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clients towards the building of an information management group. Whether we call this piece of the organization an Information Resources group or a Practice Support group, this is the component of the law office that: (1) feeds and maintains the management and practice support systems; and, (2) analyzes and applies that information for purposes of producing work product, managing matters, serving the client or managing the law department itself.

This group is composed of paralegals, administrative and technical staff that work in concert to do three basic – but critical – tasks:

- **Monitor and ensure compliance with governmental, jurisdictional or business-driven deadlines** by drafting the appropriate forms, documents or communiqués for lawyer review.

- **Shepherd standard work processes and products (legal and business) through to a timely, consistent and complete conclusion** through the use of the department's management and practice support systems and event-driven reporting, electronic workflow (electronic forms that can be intelligently e-mailed). This area, in particular, has been driven hard to manage a consistent and coherent processing of Discovery requests, patent/trademark filings and renewals and general corporate transactions.

- **Capture, scan, and import into the Document Management System** all incoming mail (hardcopy) and faxes that is related to a case or area of law. These are typically file clerks that provide an objective indexing of the document so that information can be quickly fed into document management, litigation support, and case/matter management systems and, thereby, made quickly – and easily – available to all networked lawyers (outside or in-house), support staff and, as appropriate, in-house clients and executive management.

There are a couple of myths in scanning that require debunking. The first is that you have to go to a “paperless office.” There's always the General Counsel that wants information in hard copy. Well, if that is the case, a secretary can always print out the electronic copy – just don't file it when he's

finished (trash and recycle). There is no productivity savings or improvements in client service if everybody wants the original, hardcopy in their hands – and this is obviously cumbersome as there is only one original copy.

With scanning and networks, the objective is to make a true and accurate copy of single original document available to *all parties - anytime and anywhere*. Think of all the FedEx charges, of copying multiple times (people, time and storage) and handling time involved with handling paper (not to mention loss and damage). There has to be a change of culture, a change of work style. And there has to be a management commitment to making this change – starting with the top.

The second myth is that you scan everything. This is wasteful and clutters up your system. But you do, at a minimum, scan all documents that are received from a government agency, court, other regulatory body or outside counsel —things that have importance to a case and most times have a deadline or associate task associated with it.

The third myth is that the file clerks can't possibly index these documents; they're not lawyer. Objective indexing means that you index just the things that are objectively seen – the date of the letter, the addressor, addressee and, if appropriate, a subject line. You don't have to be a rocket scientist to figure out where something comes from and read this type of information ... this could be a legal clerk being the gatekeeper. A system agent in the Document Management System can then key in on all new documents with that addressee name and then notify the addressee that he/she has new “mail.”

If there is further indexing required (and odds are there is for some things), the paralegal or secretary assigned to that lawyer will find the scanned image and adds the necessary indexes on a case-by-case basis. If the lawyer wants paper, fine — the secretary prints it out but does not file it ... it goes in the wastepaper basket — if the lawyer wants the paper again at a later time – print it out again from the system ... and then throw it away (to the recycling bin, of course).

The object is to get important documents captured and available on line for corporations who function globally and have many different people in different time zones requiring access. Other items to be scanned, can be done separately by a secretary or paralegal (things like executed contracts, etc.)

The fourth myth is that scanning is not reliable. Scanners may not work all that well with OCR (turning the docs into revisable text), but they work perfectly well with Image Scanning (think of a photograph) which is the approach being suggested.

The last myth is that scanning and storage is an expensive proposition. This has changed dramatically. High-speed scanners are under \$5,000. And network storage to hold the images is cheap – you'll get no arguments from the corporate IT people on this. And the cost of the additional legal clerks salaries will be a fraction of the savings in time, security, copying, shipping, etc.

Face it... the insurance companies have been doing massive amounts of this type of scanning for years and have invented elaborate workflow programs around it. Its time for the legal profession to become aware of the technical opportunities and be willing to make a change – just like they did with going from answering every call to voice mail and going from quills to type writers.

The next component of the organizational structure is the in-house Managing Attorney. These positions direct the legal strategy of each case that is either worked through by in-house staff attorneys, outside counsel or some combination of both depending upon the department's staffing philosophy and the type (and urgency) of the matter. Outside counsel should be pared down to a manageable number in terms of their understanding the corporation's business and legal needs and in terms of providing quality legal services with cost-effective (perhaps alternative) fee arrangements and value-added services such as electronic information exchange, for example:

- Electronic task-based budgeting, billing and bill “auditing” (compliance checking with billing guidelines) to streamline and

simplify the processing and management of outside counsel's bills.

- Electronic exchange of document and matter management information with outside counsel, in-house attorneys and staff to quickly and easily share information in a timely and accurate manner.

- Access to Extranets or electronic subscriptions as a means of keeping up changes in case law, regulations, etc.

The Technology Dimension

Having established those basic organizational participants, we have to equip them with the requisite facilities that will streamline the creation and dissemination of work product and business documents, i.e. optimize cost-effectiveness and increase client service. Following are the "core" building blocks:

- Attachment of the department's management and practice support systems to a global, network in order to quickly and securely exchange information with both in-house clients and outside counsel. These networks should also support remote communications from mobile in-house teams who need access to in-house systems. This network may be the company's internal network or a commercial, value-added network.

- Network faxing that can integrate with e-mail and basic office applications to quickly and easily fax internally generated or scanned documents to outside parties - and to receive faxes from the same parties.

- One or more network-attached, high-speed scanners, recordable/rewritable CD drives, high speed printers, CD-ROM towers or jukeboxes, or other network storage systems to support the scanned image library in the Document Management and Litigation Support systems.

- **A Document Management System** to store and index revisable or non-revisable internal and external documents, essentially provided an electronic case or matter file that can be simultaneously shared by in-house counsel and other related corporate or external parties. The document management system would allow users to search, retrieve and display these documents by using a

variety of searchable criteria including: Author, matter/case, client (line of business), area of law, document type, etc.

- **A Matter Management System** that can help manage all resources related to a particular case or matter. It tracks all related parties, all the dates and all the costs of each matter. The MMS can record, monitor, analyze and report: assignments of in-house and outside counsel for each case or matter; planned phases, tasks, fee budgets, and billings related to each case. The MMS can be configured with the network to provide an electronic link between in-house and outside counsel to exchange budget and billing information at the phase, task and assigned lawyer level.

- **A Legal Home Page on the Company Intranet** that can serve as a "portal" to all things of a legal nature. The Home Page can contain legal awareness information, contract templates, FAQs, and restricted areas for a particular case or matter where a client can get up to date information from the MMS or case related documents from the DMS.

- **Specialty Practice Support Systems** (litigation support, document assembly, corporate secretary, intellectual property portfolio management) that is tailored to specifically capture, display and report information specific to a particular practice.

Depending upon the complexity of the matters being served by corporate counsel, the above systems can be separate products or functional components of a single product. In any event, they should be well integrated with one another with the corporation's mainstream office applications (e-mail, word processing, etc) and business systems (SAP, JD Edwards, etc.).

The Process Dimension

The last area to consider is how the organization uses these core technologies to cut costs and provide higher levels of client service. We chose two representative, "generic" processes for illustration purposes and used litigation as an example. The techniques and technologies illustrated in these examples can be applied to other processes as well to reduce time, effort and

cost while making valuable management information available online.

File Opening

- The Intake Coordinator in the Practice Support Group is responsible for receiving all Summons & Complaint documents. Once a new S&C is received from the court, the Intake Coordinator:

- Goes online and completes a new matter e-form. This e-form resembles a paper form but it is online and, once completed, is routed by e-mail to the other interested parties rather than internal mail or fax. Once it is routed and approved (electronically), the information in the form is automatically saved in the Matter Management System (MMS). Depending upon the jurisdiction and the law department's policies and procedures, the MMS will use rule-based docketing to automatically generate internal milestone and jurisdictional filing or court appearance dates.

- Scans and indexes the documents in the Document Management System.

- E-mails an electronic case assignment form to the Managing Attorney (the bulk of the form's information is already completed based on information already captured in the Matter Management System).

- The Managing Attorney receives the e-mailed form and:

- Retrieves and reviews an online image of the Summons & Complaint documents.

- Enters the Matter Management System and selects an outside counsel (by making online inquiries based on jurisdiction, product specialty, etc.).

- Enters the selected outside counsel into the case assignment form by choosing from a drop-down list available from within the form.

- Forwards the form via e-mail to the assigned outside counsel. The form contains a budget worksheet.

- Outside counsel receives the e-mailed form and:

- Accesses the corporate document management system to review the S&C and any other case-related information. Contacts and discusses the case with the Managing Attorney and decides to assume

the case.

– Completes the budget worksheet attached to the case assignment form (indicating budgeted hours, assigned attorney and his/her hourly rate by phase and task) and returns it to the Intake Coordinator in the Practice Support Group in the Law Department.

• The Intake Clerk receives the e-mail with the attached form and worksheet and:

– Imports the information directly into the Matter Management and/or Case Management System.

• The Matter Management System (MMS) alerts the Managing Attorney (via an e-mail) that the case has a received a proposed budget.

• The Managing Attorney enters the MMS, reviews and approves the budget online. This approval “triggers” the MMS to send an e-mail notice to the line of business client contact that a new matter has been opened.

Billing

• Outside Counsel’s accounting system is designed to output and e-mail an e-bill that has been formatted to corporate counsel’s specifications (which is exactly the layout of the case assignment budget worksheet). The e-bill is sent to the Billing Coordinator in the Practice Support Group of the corporate legal department.

• The Billing Clerk receives the e-mail with

the attached billing file and takes the following steps:

– Imports the billing information automatically into the MMS and runs an online inquiry to analyze the bill for budget control and billing guidelines (e.g. no more than 24 billing hours a day and no senior attorneys with a task code of drafting documents).

– Discusses and resolves any anomalies with Outside Counsel.

– Changes the status of the bill in the MMS to indicate that it has passed review. This “triggers” the MMS to send an e-mail to the Managing Attorney notifying him/her that there is an electronic bill to review.

• The Managing Attorney enters the MMS and can either view and approve the bill online or print the bill out, review it and then approve it online.

• This approval “triggers” the MMS to output an electronic check request file and to e-mail it to the corporate accounts payable department.

• After processing the check, the accounts payable system generates an electronic check confirmation file which is e-mailed back to the Billing Coordinator in the law department.

• The Billing Coordinator receives the e-mail with the attached file and imports the information into the Matter Management System to complete the bill processing cycle.

SUMMARY

By integrating technology, organization and process flow, a law department can cut down on the time and expense to handle everyday professional and business activities freeing up time to dedicate to communications, preventive law, legal research, and strategizing. As many corporations - and many law firms - have already invested significant capital investments into technology, there are only a few more steps needed - and they can be significant in terms of organizational and process change - to fully exploit that technology to improve the quality of client service and legal services. The alternative is to continue to struggling to find, produce, analyze and report substantive and management information with two separate and somewhat incompatible paper- and computer-based systems.

More and more progressive law department managers and corporate executives don’t feel there is an alternative. Not only is the old, paperbound way of processing information very inefficient, it also takes longer and is subject to loss or damage. Finally, the use of paper to collect and store this information restricts or inhibits the collection and reporting of key management information needed by General Counsel to control costs and raise client service.