

Why Document Management: a White Paper

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Executive Summary

Everyone organizes their documents, emails, scans, electronic faxes, graphics, etc. in some fashion, whether or not they use a document management system (“DMS”). More sophisticated users develop naming conventions to make identifying and retrieving documents easier. The question is, what does a specifically “document management” *program* such as Hummingbird/OpenText, Interwoven/WorkSite or Worldox get you that some home-made system does not?

Just as everyone organizes their documents, so too has everyone *not* using a document management system spent much too much time hunting for “lost” documents, often even re-typing them, hunting for subdirectories that were “dragged and dropped” who knows where, and so on. These are some of the issues that typically drive firms to adopt a document management system.

Today, attorneys are swamped with information that goes beyond traditional “documents,” including emails, faxes, scanned documents and pages saved from the Internet, as well as traditional documents generated by the firm and mountains of document production. A Document Management System is the traffic cop that brings order to this chaos: organizing it by client/matter, categorizing the types of documents you have and directing them to the proper place. So by “documents” here I include all these items.

This White Paper has three purposes:

1. To make the case for document management systems as such.
2. To raise issues and functionality that a document management system can (or should) provide that perhaps your firm had not considered.

3. To consider some of the best practices involved in implementing and using a document management system.

Thus some sections of this paper have a more general conceptual approach, while others have more of a “how to” flavor.

This paper focuses primarily on Worldox, since I believe it to be by far the best suited to small and medium size firms.

Many parts of this document were originally published as shorter posts in my blog [Does It Compute?](#), although they have been extensively rewritten to eliminate redundancy.

A shorter version is available for subscribers to the Technolawyer listserv as the “Buyers Guide to Document Management Software.”

The ABA Law Practice Management Section has published my book, *Worldox in One Hour for Lawyers*, which incorporates many of the points contained in this article while focusing more specifically on Worldox.

Finally, I realize it is utopian to suppose that all my suggestions will be implemented by any given firm but if you at least are conscious of *why* you don’t want to implement them, you will be ahead of the game.

Addendum August 2013

Since I first wrote this four years ago, surprisingly little has changed in relation to document management issues. The main changes include more attention to web-based programs and collaboration using “Cloud” (internet-based) services and portals.

John Heckman

Introduction: Why Document Management?

For medium and large law firms, with hundreds of thousands of documents, using a document management program to organize, index and control their documents is an absolute necessity.

Many solo practitioners and smaller firms, however, do not see the need. They feel that with a well thought out directory structure they can have adequate access to their documents. They argue that any added functionality offered by document management programs is not worth the expense of additional hardware and software, training, and administration. This paper details some of the advantages document management offers even a solo practitioner or small law firm.

Naturally, there is a wide range of opinion concerning what features are critical and which are “superfluous” bells and whistles. And like word processing programs, document management tends to conform to the “80-20” rule: 80% of people use only 20% of the program. However, people in different practice areas or with administrative functions tend to use a *different* 20% of the program, so this is not reflective of the overall use of a program firmwide. And keep in mind that when a feature that might otherwise be considered an “extra” *is* needed, it is often very badly needed.

How Document Management Works

In a document management system, each document – or email, fax, scanned item, or saved Web page – is assigned a profile sheet or “template” which typically contains a long description for the document, author, client/matter information, document type (brief, contract, memo, etc.) and perhaps other items. For example, an insurance company might want to identify the state law governing policies or contracts. A firm representing a real estate developer

might need extra fields to identify the client (the developer), the specific property, and various tenants. Both the metadata information in the profile and the full text of the document are indexed for rapid retrieval. The DMS assigns a file name and decides where to store the document based on criteria set up by the firm (author, document type, client/matter number). This process is transparent to the end-user who never even sees the underlying structure.

A second type of document management system, represented by programs such as Document Locator, Laserfiche or M-Files, implement an expanded version of Windows Explorer to organize documents. These programs tend to be more popular with non-legal companies. They also frequently focus on managing a *static* document store, rather than ongoing drafting of documents. Thus they are more appropriate for

implementations in, for example, town government (tracking tax and property records), hospitals and health care companies (patient records), banks and similar areas. They frequently offer (optional and at additional cost) advanced data mining capabilities.

Legal document management systems tend to be integrated in all aspects of the firm’s work – taking over saving and retrieving *all* documents, emails, faxes, scans, or saved Web pages – whereas the “static” document management systems require a two-step process of importing documents into the system (in however an automated fashion that may be), hence the appellation “store and forward” systems.

One of the first issues a firm needs to decide is whether or not use of the document management system should be obligatory. Giving users the option of “opting out” of document management almost

The DMS acts as the traffic cop at the crossroads of the information highway: controlling, organizing and directing the flow of information.

inevitably means crippling the system due to human error or lack of cooperation by recalcitrant users. So the ability to “lock down” the system is often a “deal breaker.”

Finding Documents

When a user starts to retrieve a document, a list of the most recent documents he or she has worked on, including the long document description, appears first. If the desired document is not on this list, the user enters search criteria on the profile screen and is presented with a list of “hits.” Fairly complex boolean searches are generally possible, including a combined search of both the profiles and the full text index of the entire document store. Think of it as Google for your documents

Depending on the program, additional features can provide advanced security options, better reporting on document use, version control, an audit trail showing who has accessed the document, and so on.

Key Considerations/Features in Opting for Document Management

What are the key considerations that lead a firm to adopt a document management system rather than continuing with a manual system? The key points listed here will be developed at greater length below.

Client/Matter-Centric Approach. Many individual attorneys use their Outlook in-box as their “document management system,” often storing 5-10,000 emails there. The problem is that Outlook is based on individuals: there is no automated way to locate all the emails relevant to a particular matter across the firm. Document management systems, on the other hand, tend to be *client-* or *matter-centric*: everything is organized around clients and matters. Thus it is trivial to tell the system: “show me all the documents, scanned items and emails” for Client X or Matter Y.

Outlook is based on individuals ... document management systems tend to be *client-* or *matter-centric*.

Standardizing and Centralizing Force. Document management is a standardizing and centralizing force. When all users are obliged to use the same system, you are assured that, for example, all correspondence is stored under “correspondence” rather than “letters;” or under “motions” rather than differing subsets of motions and that everyone uses the same conventions. In addition, it ensures that all documents, emails, faxes, scans and saved Web pages are stored in the same place, rather than some being stored on the server and some on the local desktop; that all documents are organized using the same system instead of having a given client’s documents stored using different

criteria – by user, by practice area, document type, etc. Note that this is also an increasingly important criteria in relation to electronic ediscovery by facilitating rapid and *complete* retrieval of all relevant documents. A DMS gives you an initial step up when it comes to producing documents for e-discovery.

Greater Speed of Document Retrieval. In a manual system, when trying to find a document in the giant “book” that is the sum total of your documents, the user must know where an existing document has been stored and what its name is. While most users are fairly efficient at finding their own documents, searching for a document created by someone else can take a significant amount of time, which in any event is bound to be greater than the 5 seconds or less it takes a document management system to find a document. In many cases, a user spends 5 minutes or more searching for a document, or even winds up retyping it!

Avoidance of Human Error. The time lost in a manual system due to human error is substantial. A user may have stored a document in the wrong place by accident, forgotten what the document was named, or even “dragged and dropped” an entire

directory to some new location without even being aware of it. When someone other than the original author tries to access a document, difficulties are compounded. A user may have to look in four or five places before finding a document, or even be unable to find it at all. If the original author of the document is out of the office due to vacation, illness, etc. this can be a serious problem. When people change jobs or assignments, the problem is aggravated.

Control over Document Access. Document management typically gives a firm much better control over document security and access. Confidential documents can be made available only to the people who need to see them, whether it be accounting, human resources, trusts and estates or those responsible for highly confidential client matters.

By defining what groups of people have access to which kinds of documents, document management systems avoid the problems inherent in passwording documents, which range from forgetting passwords to posting them on yellow stickies on the computer monitor. Security provisions frequently include an audit trail showing who last accessed a document, who made changes, printed it, checked it out, etc.

Full Profile and Text Indexing. The fact that the metadata contained in profiles as well as the full text of all documents are indexed has other advantages besides increased efficiency in retrieving documents. For example, you can define a search that lets you see at a glance all documents of a particular type that contain certain words (all briefs containing the term “amputation” for example). Full text indexing can also be of assistance in conflict checking, for example by searching on all documents that refer to a particular business or person. While desktop search engines will full text index your documents, they are not matter-centric, so a combined search for text + type of document or client is not available. Finally,

in some programs, such as Worldox, when you do a full text search and then “View” a document in the hit list, the document is opened at the specific text you searched for.

Email Integration. With more and more communication and document exchange taking place via email, integration of your email system into the document management system is increasingly important. With the current rules on e-discovery, one could even argue that this might be the most critical item in a document management system.

Other Features. Many of the specifics of a document management system will be dealt with below.

In addition to the items mentioned above, some of the key additional “bells and whistles” firms often need in a system include:

- Integration with *all* the main programs you use, in particular e-mail and scanned documents, as well as Acrobat, Excel, etc. Boutique firms may have a number of specialty programs which must also be integrated into the system.
- Incorporate all your scanned documents in the document management system, including with full-text searching.
- Save Web pages from a browser to the DMS.
- Individual document security as well as by category (e.g., all HR documents)
- The ability to create an “ethical wall” around certain clients or for certain attorneys.
- Audit trail to see who has accessed (printed, checked-out, etc.) documents.
- Reporting (all documents of a certain type, or all documents used by “X”).
- Check-out/Check-in of documents; the ability to take a set of documents with you or on a laptop.

The Return on Investment for any document management system will be six months or less.

- “Mirroring” so that backup copies on the local hard drive let you continue to work if network is down (especially useful if you are using a laptop and want to take things with you).
- Automated link to Time/Billing system so that new matters can be imported into the system automatically.
- Version Control.
- Web Access to your document store. A related issue is the ability of a DMS to link to or support portals for a firm’s clients – the ability for clients to access a selected subset of their documents at will and possibly to edit them as well.
- Portals. Do you need a robust system to provide selected clients internet-based access to designated documents (including granular security on who can edit them)?

Cost/Return on Investment (ROI)

Law firms typically do not pay a lot of attention to Return on Investment, although that is changing. Most of the studies you see estimate a cost savings as a percentage of investment. For a small firm, however, there is a more telling measure and one that is easier to evaluate.

Lets say implementing a document management system such as Worldox costs \$1,000 per user. Larger systems are likely to cost close to double that. Say a user saves 10-12 minutes a day (and that is a very conservative estimate) or an hour a week. So an attorney who bills just \$250 an hour recaptures his investment in four weeks! You can juggle the numbers any way you see fit: the fact is that the return on investment for a document management system is almost always going to be six months or less. Naturally this varies according to product. See the “overhead” considerations for types of document management below.

Types of Document Management

Do-It-Yourself

Many solo practitioners or small firms believe that file naming conventions and a structure can function as a “free” version of document management. Frequently this approach proposes a structure that does indeed mimic what a document management system would offer, namely organizing files by client, matter, document type and with a naming convention starting with date: “YYYY-MM-DD name of file.doc” or some such. This is sometimes combined with a desktop search engine for indexing.

Is such a DIY Document Management system adequate for a small firm? The problem with these systems is that they are (a) manual; (b) depend on accurate input from end users; and © offer very

limited capabilities in comparison with a true document management system. So the question is, what features and functionality justify the expense of adopting “document management?” If you answer yes to even one of the following questions, then you need a document management system.

(1) Do you want usage to be enforced? Or do you want to have people have to think about whether or not they will follow a voluntary convention. Does the firm want to control and track all its documents? This is doubly true with the current electronic discovery rules, where it might be argued that someone who stored a file not in the proper place was trying to hide something. This has actually happened for deletion of emails and penalties have run into the millions of dollars.

(2) Do you want the naming of documents to be automated? Why should you type in “YYYY-MM-DD” for every single file you save when you can get the computer to store that information for you? Why should you have to scroll through a bunch of directories when the document management program can search an index qualitatively faster?

(3) Do you want it to integrate your email, so that all documents, scanned items and email are available with a single search? As the question of organizing email becomes increasingly important – and Outlook organizes email by individual not by client – this can be a critical consideration.

(4) Do you want full boolean search capabilities that combines full-text searching with a matter-centric approach? Examples:

– Find all documents with “tax*” in the title (i.e., tax, taxes, taxing, taxed) and that contain “2004” in the document for the Jones matter.

– Find all pleadings that contain “malpractice” within 10 words of “negligence” that were done in the last 6 months for your insurance client.

– Find all the emails from John Smith relating to the Haversack matter.

(5) Do you want full version control without having to have a separate file for each version? You want to be able to find them all at once and if necessary compare different versions.

(6) Do you want to be able to create security groups for specific files and/or departments (e.g., Human Resources, Management Committee)?

(7) Do you want an audit trail of who worked on a document, printed it, copied it, etc.?

A DIY document management system will do none of these things. Trying to create one is very time-consuming, and the minute-here, minute-there adds up very rapidly.

Optional

Many practice management programs, such as Time Matters, Amicus or Practice Master include a “document management” feature. In these cases, every time a user saves a document, they must actively select some form of a “save (or link) to document management” function. By doing nothing and just hitting the “save” button, users will not

make use of the document management functionality. Optional systems depend on the human element to use the system in a disciplined fashion.

Higher-end systems that are based on an expanded use of the Windows Explorer interface, such as NetDocuments, Laserfiche or Document Locator usually also suffer from this problem (in some cases they *can* be configured to “lock down” the systems – but it is not the default).

In my experience Murphy's law condemns any “optional” system to failure at key junctures and therefore to be little better than no system at all. If users can decide not to save a document into the system, they will of course make this decision with a key document at a key moment. Therefore any “search” is not in fact searching all your documents and the key omissions make the system fatally flawed. Mandatory systems are sometimes referred to, in honor of Jerry Seinfeld, as “Network Nazi” systems.

Obligatory

Obligatory systems take over the way you open and save documents, emails, faxes, scans, and Web pages. Any time you want to open or save a document from any application on your desktop (with the exception of most database programs), instead of the program’s native screen, you see the document management screen. Thus users cannot decide whether or not to save a document into the DMS, they are obliged to do so. The DMS acts as a traffic cop at the crossroads of what used to be known as

Murphy's law condemns any “optional” system to failure at key junctures.

the “information highway” – controlling, organizing and directing the flow and access of documents and information to where they need to go.

While sometimes initially perceived as an intrusion into work habits in fact obligatory systems are much more reliable. There is never any question where someone has “put” a document – it is always in the system. Furthermore, with full-text searching it is virtually impossible to “lose” a document.

The main programs of this type in the legal market are Worldox, Interwoven’s WorkSite and Open Text’s eDocs. Cloud-based Net Documents can also be configured with this option.

Static

Static systems such as Laserfiche and Document Locator depend on a two-step “store and forward” process. First you save or scan a document, then you port it over to the DMS. These systems are most heavily used where the overwhelming body of documents are scanned forms: Town or County records (tax, real estate, etc.), Hospital or Health Care provider records (doctors’ or patients’ records), or Banks (various loan applications and similar items).

They are not designed for the creation of legal documents or the integration of email. In fact, Laserfiche’s 100 plus page “Overview of Document Management” barely even mentions the integration of email, a critical function for law firms.

Cloud (Internet-Based)

It seems clear that the future is in the clouds – more specifically the Internet “Cloud.” The question at this point in time is the rate at which most or all applications become web-based. Nevertheless, from a law firm’s point of view there are two major problems with this trend.

The first is the sad state of “high-speed” internet connectivity in the U.S. A article by Nobel Prize

winning economist Paul Krugman in the *New York Times* (July 23, 2008) noted that broadband connection rates in France are three times as fast as in the US and in Japan they are 12 times as fast. French broadband can reach speeds of 18Gps - which is about 15-20 times faster than a standard “high-speed” connection in the US. In Sweden, a test network can download at 40Gps - so you can download an entire movie in 2 minutes. More recent statistics show that the US ranks 27th in the world in terms of Internet speed – after such powerhouse as Lithuania, Latvia, Romania and most of Europe and Eastern Europe. This has been changing, but only very slowly.

The more important impediment, however, is what lawyers sell. Lawyers do not sell cars, soap or manufactured goods. They don’t even sell services like landscape gardeners or maids. They sell documents – contracts, agreements, court pleadings, and so on. So asking lawyers to store their critical “product” on the Internet understandably meets with significant resistance. If a manufacturer loses its documents, it still has its product inventory. For lawyers, however, their documents *are* their product/inventory, so losing them is more akin to having all their manufacturing facilities burn to the ground. True, storing documents on the Internet has a tremendous convenience, especially for firms with multiple offices. But for this to truly work for law firms, there has to be a way to have real time replication between the internet and on-site servers. Some internet-based backup companies do this now, but in reverse: the working copy is in the law office, the backup is on the internet. A company that would reverse the process might be able to make major inroads into law firms.

Lastly, web-based programs (“SaaS” or “Software as a Service” programs) are sold on a subscription basis. While this provides a much lower up-front cost, and eliminates some IT costs by providing automatic updates, etc, in the long run (a 3-5 year period) it will almost certainly be more expensive than maintaining your own system by perhaps 10-20%.

NetDocuments is an internet-based document management system that seems to be well on the way to having a practical solution that fulfills these requirements. It is internet based, but it also has a module that lets you “mirror” the internet files to a server at your site. NetDocuments was formed by former SoftSolutions employees (the granddaddy of all document management systems) and has come a long way toward offering a practical solution. If you don’t have a visceral negative reaction to storing your work product on the Internet, where it might be

visible to all and sundry, this is worth exploring.

In early 2013, Worldox launched a cloud version of its network-based program with monthly SaaS licensing. This program also works as a “private cloud” in the Enterprise version of Worldox. It is unique in that it is not browser-based, so the interface is identical to that of the network version and that it integrates with *all* the programs on your desktop that the network version integrates with (in particular Outlook).

Thinking About Buying a Document Management System

Most vendors focus on feature lists that promise to do just about everything except have coffee ready for you in the morning. Forget the feature list and focus on your wish list (you may also of course want to augment your wish list by items on the vendor’s list). To the extent a vendor’s feature list does not match your wish list, consider a vendor that more closely matches your needs.

Never start negotiating from a fallback position ... start with your maximum wish list.

Wish Lists and Flexibility

In business, there is a principle that you never start negotiating from your fallback position. The same is true here. Start from your maximum wish list. You may not eventually want to devote the time and money to implementing all of it, some things on your wish list may not be realistic, but at least you won’t be in a position of saying “If only I had....” three months from now.

The list of what you want a DMS to do mirrors the list of your existing aggravations. Plus, the process of creating a wish list helps to focus your thinking and will improve the implementation. On the other hand, you also need to be flexible. Remember the

old adage that while you should be able to get 90% of what you want from a given software package, getting the other 10% is likely to be very difficult and very expensive. So you also have to prioritize your wish list: which items are critical and which would you be willing to give up in a pinch?

Note that the characteristics of your wish list will have to be explored in greater detail in the process of implementation: it is utopian to try to develop a full implementation program before you even commit to the software. That said, what are some of the items on a typical wish list?

Do you want better search capabilities? Both speed and the ability to do boolean searches can be important here (find a and b; a within x words of b, etc.).

By integrating email into the document management system, all the firm’s emails become searchable and you can easily locate all emails concerning a given matter, regardless of who sent or received them. Outlook cannot do this.

It is important to have a firm-wide policy on email. The best option is to mandate moving all email into

the DMS. This makes all the email regarding a specific matter available to everyone concerned with that matter regardless of who sent or received it. It *also* lightens the burden on Outlook/Exchange and greatly facilitates ediscovery should the need arise.

The main obstacle to what is otherwise a “best policy” solution is users’ dependence on their smartphone or via Outlook Web Access. If you move email into your DMS, it is no longer available on your smartphone or Outlook. Therefore many firms prefer to copy emails, at least initially.

Do you want to be able to access your documents over the Web, from home or elsewhere? Do you want to make specific documents available to selected clients them over the Web (an “Extranet”)?

A critical issue is whether you want to “lock down” the system, that is, oblige everyone to use it all the time. Practice Management programs such as Time Matters, Amicus Attorney or Practice Master offer “document management” modules that are optional – users are not obliged to use them. Some higher end programs such as NetDocuments, Laser-fiche or Document Locator also do not by default

lock down the system. Especially if a firm is highly compartmentalized where each practice area (and sometimes each individual attorney) “does their own thing,” this is a critical issue to get agreement on. Note that an initial desire to be able to opt out of the system may be satisfied by providing detailed security for certain attorneys, cases, etc.

Getting Buy-In

As with any other implementation, it is critical to get buy-in from key people and practice areas in the firm. Who the “key people” are of course depends on the firm. The list frequently includes at least the Managing Partner, various practice area heads, key paralegals and senior “power users.”. They need to be aware of the issues described below and how they will affect them. Thus when a firm has a presentation from a document management consultant or vendor, it should make sure that the attendance includes Senior/Managing Partners, Office Administration, technologically inclined Junior Partners or Associates, Paralegals and Administrative Staff. These are the people who can make or break an implementation and it is important to involve them from the beginning.

Actually Purchasing the Software

Once you’ve decided to bite the bullet in principle, how do you actually go about buying the software?

Since most major document management systems offer roughly equivalent functionality, the difference among them as far as your firm is concerned may be marginal. On the other hand, if there is one feature you absolutely have to have that one program has, but another one doesn’t, that may be a decisive factor, since the ROI on all these programs is very short.

Other things being equal, cost is a significant factor to consider. “Cost” includes the base price of the software, network hardware requirements (will you

need one or more additional servers to run the software), local workstation requirements, the cost of implementation/customization, and ongoing overhead costs.

Leasing. One option may be to lease the hardware, software and even consulting time. This will provide you with a fixed monthly cost over time, typically one to three years, at a small premium (10-20%) over the cost of immediate purchase. You should, however, be careful to use a specialized leasing company rather than the leasing programs of a hardware vendor as it will be less expensive.

Price of the Software. This obviously varies with the size of the firm and the different products. There are several important questions to ask here, however:

- Is the price all-inclusive or is there a “base price” and then a bunch of additional modules? Frequently when a software vendor says a program will do “x,” that involves an additional module and cost.
- Does the price of the software include technical support and future upgrades? Worldox, for example, includes future upgrades in the maintenance fee; many other companies do not.
- If you are “buying” (renting) a Cloud-based SaaS solution, you need to do a very careful cost analysis over a 3-5 year period.

Cost of Implementation. There are three parts to implementation: the cost of actual rollout, the cost of customization, and training. Be sure to investigate the cost of customization carefully, especially for higher end products where the quoted price frequently may not be the biggest part of your cost. And don't forget training. Training may take anywhere from a couple of hours to close to a full day. Further, you want adequate floor support (depending on the size of the firm) after the actual rollout.

Ongoing Overhead/Administration. Depending on the program, ongoing administration may be a significant cost. For SQL-based product you are likely to need at least a part-time dedicated adminis-

trator, whether in-house or by using a consultant.

You should also factor ongoing training into the administration costs. Brown-bag lunches to cover specific or more advanced elements of a program are highly desirable. Not only do they upgrade people's knowledge, but they help insure that minimum standards are met across the firm.

Consultants. Obviously you want to perform due diligence about any consultant: experience, certifications, references, and so on.

If a consultant represents a single program, he or she may have an ax to grind. Ask the consultant to compare his product with competing products you are considering. Any consultant who refuses to do this discredits himself: consultants are supposed to advise you what is best for *you*, not what is best for them.

Perhaps the most important characteristic of a consultant is somebody you feel comfortable with (once the basic skills and experience are verified). In fact, I would even argue that choosing a consultant that fits your firm could strongly influence what program you decide to implement: a program with fewer bells and whistles implemented by a consultant you are comfortable with may be a superior choice as opposed to a program that is theoretically “better,” when implemented by a consultant who turns out to be a mistake. Remember the old adage: a consultant is the person you bring in to clean up the mess created by the last person who called themselves that.

Implementing Document Management

There are no hard and fast rules when implementing a document management system, although experience shows that some configurations tend to work

better than others for most firms. Therefore I will focus on some general guidelines based on my experience as a consultant with document management systems.

“Every site is a snowflake – unique.”

This frequently comes up in the form “our firm is unique in the way we work.” In a literal sense, this is of course true – every installation has tweaks and details that are unique. However, underlying this uniqueness there are structures, typical patterns and categories that, when understood, make it easier to get to the final “tweaking point” needed to round out a good installation. Firms are not as different as they sometimes like to imagine. Implementing document management could also serve as a starting point to reexamine a firm’s past practices that may have “grown like topsy” and make them more consistent and efficient.

Plan, Plan, Plan

Once you have a wish list, how exactly do you want the system to work? Do different practice areas/departments require different settings or levels of security? It is important to look at this closely to distinguish between what a practice area or specific attorneys might think they want and what they actually need. Does the firm have a strong management or does it more resemble a series of medieval dukedoms, with each “duke” ensconced in his castle on a hill (or corner office)?

Thus the first thing to look at is the structure of the firm. A boutique firm requires a much simpler structure than a general firm with numerous different practice areas. For a larger firm, you also need to consider whether the various practice areas are self-contained (in effect, the firm is a collection of boutique firms) or interpenetrate, with secretaries and paralegals working for multiple practice areas.

This has consequences for the structure you wish to put in place, in particular whether you have one or multiple “profile groups” (think of it as dividing up the document store into different compartments).

To the extent a particular department or practice area wants its “own” profile group, it is important to examine what is it about that area that requires a different or expanded set of information in the profile. (“We’ve always done it that way” is not a very good answer if you cannot articulate *why* that is the case.)

Answers to design issues must start from an analysis of the firm’s structure and culture.

Most likely, you will want some additional profiles and levels of security for confidential information (Accounting, Human Resources, the firm Management Committee, etc.) so that only authorized

personnel have access to whole categories of documents. In specific cases very sensitive areas of a practice (trusts & estates; mergers & acquisitions) might need a “walled-off” area. Some programs also allow you to create an “ethical wall” for particularly sensitive clients.

Partners frequently wish to be able to “opt out” of the system at will for a variety of systems. Most often, their concerns can be met by setting detailed security on certain clients, types of files, their personal files, etc.

In addition, you need to address the issue of personal information. How do you want to deal with users’ requests for a space to store their “personal” stuff? Users will have questions such as “what about my personal documents?” “I keep the partner’s personal correspondence on my local hard drive, what will happen to that?” “I keep drafts on the hard drive and only put the final copy on the network.” It is important to distinguish here between truly personal documents and “work in progress,” drafts, documents that are not done, etc. The latter are obviously part of the firm’s work product. If these issues are not addressed beforehand, you could have a revolt on your hands. The actual answer you give is less important than addressing the issue – and you may also be led to modify the structure of your system to accommodate certain concerns or requirements.

The answer to these issues depends on the firm's culture. In principle any documents produced on a computer owned by the firm belong to the firm. However, this principle is most often honored in the breach.

Finally, keep in mind that there is a trade-off between security and convenience. If you lock a system down too much, it can have a serious effect on usability. You need to establish your comfort level here.

Involve End Users; Set Expectations

If end users are taken by surprise when a system is rolled out, you could be in for a rocky implementation. In addition, Partners who are used to certain work habits (and may not want to "share" their documents) may have to modify old habits, so it is critical for Partners to "buy in" to document management.

One way to further this goal is to put out a memo along the lines:

"We are considering implementing a document management system. We expect it will address the following issues that have been plaguing the firm....

"In addition, the DMS will provide the following enhancements/benefits that will make your work easier...

"In order to properly implement the system, users will be expected to conform to the following guidelines in terms of personal or other non-business related documents...

"Please let the office administrator know of any concerns you have or additional issues you feel should be addressed..."

While this process may be somewhat foreshortened in a smaller firm, the basic issues should be addressed, even if informally.

Designing the System

The technical aspects of the system – where will the documents be stored, whether a new server will be required (most DMS's require a separate server, Worldox is almost alone in not normally having this requirement) – should be decided between your IT people and your consultant.

Document management systems create "profiles" or "templates" to facilitate organization and faster searching. These typically include Client, Matter, Document Type, Author and sometimes Typist in addition to the document description. You need to decide whether this is adequate or whether you have special needs. For example, a corporate legal department might want to also categorize documents by the state whose law governs the document.

Questions you need to answer include the following (which have been examined in more detail elsewhere):

- How many different profiles/templates do you need? Separate ones for HR, Accounting, Management Committee, etc. What special requirements might mandate the need for a separate template for separate practice areas?
- How do you wish to deal with personal documents? A subset of this issue is how do you want to deal with personal business by senior partners or others?
- How do you want to deal with email?
- How will you deal with, *e.g.*, faxes, saved Web pages, and other types of electronic information?
- What additional functionality do you wish to include (brief or form banks)?

On the other hand, you want to avoid "design by committee" like the plague. At some point, a firm simply has to designate a small group of people to come to a decision.

Old (“Legacy”) Documents

A major issue when implementing a document management system is what to do with your old documents. It is a safe bet most firms will never need to access up to 75-80% of the documents created before the document management system is implemented. I recommend setting up a “legacy” category for your old documents. Force users to move old files into the new system the first time they access them. This will be far less time-consuming (and hence less expensive) than trying to convert your old documents.

If you are switching from one document management program to another, however, there may be conversion utilities available to convert your old information. This would also be a question to ask vendors during the initial evaluation: can their program convert the structure of your current system?

Integrating Other Software

Make sure that the proposed document management program will integrate not only with Microsoft Office or WordPerfect products, but Acrobat (or alternative PDF programs), various scanning products, cost recovery modules such as eCopy or Equitrac or other specialized programs that the firm uses. Boutique firms usually have specialty software (real estate, intellectual property, transcript programs for litigators, etc.) Utility programs such as Roxio CD burner should be taken into account. One frequently used program you should explicitly check on if you use it is Workshare. If the program does not natively integrate, can integration be easily added without costly additional custom programming? Worldox, for example, integrates with over 50 programs, and tech support can usually integrate it with almost anything in a half hour or so. Most document management programs cannot integrate with database programs such as those commonly used for e.g., real estate closings, precisely because they are databases, not individual files (although the output as PDF or Word file can be saved with the DMS).

Lastly, some utility programs, such as Active words or tunes, may conflict with the document management system.

Email

Client-related emails sent or received by various people in the firm should be integrated into the document management system so that they are available to everyone working on a case. Outlook makes it difficult to organize emails around clients and matters.

The firm needs to establish policies for how emails are stored in the document management system. You want to make it possible for people to exclude personal email, items from listservs or RSS feeds, spam, etc. You also need to decide how to deal with existing email stores. This critical topic is examined at greater length below, especially since it is frequently an area of resistance from attorneys who have been using Outlook as their “document management system” and may have 5-10,000 uncategorized emails in Outlook.

Scanning

The desire to manage scanned documents frequently provides the impetus to adopt a document management program. Developing an efficient workflow for scanned documents is a major issue and is dealt with below.

Working Remotely/Web Access

Virtually all attorneys these days work from home at least part of the time. What provisions will you make for attorneys to access the document management system remotely from home?

Remote Access to the DMS. Smaller firms may use programs such as GoToMyPC or LogMeIn, which enable the user to log in to their own desktop and work as if they were at the office. Many firms use the built-in Windows Remote Desktop Program (RAP) functionality. However if users have laptops

as their main computer, this may not be an option. Larger firms are more likely to use a VPN connection, Terminal Services or a Citrix installation, which accomplish the same thing.

Web Access. For instances where this is not feasible, most systems provide some form of Web Access (generally as an additional module). This enables users to log in just to the document store via a browser. Some programs, use “pure” browser access – no other program is required. Others require a small program to be installed on the home machine or laptop which may limit access (if you are in an Internet café in Italy, say). Worldox has both approaches available. Many programs, including Worldox, have developed iPad applications. Lastly, you should enquire about access to your document store via PDA. Ideally, this should be device-independent: Blackberries, Android Phones, Windows Mobile, iPhones. You don’t want to tell an attorney they have to give up their smartphone in order to access their documents! While reading and editing documents on a PDA is not very realistic, the ability to review documents and email them from your PDA can be very valuable.

It is also important to verify what limitations there may be in comparison to the desktop version when using a web access module.

Extranets. It should also be possible to set up an “Extranet:” remote access to restricted areas of your document store so that specified clients can access those documents (and only those documents) that the firm makes available to them.

Portals. In some cases firms might want to implement a dedicated extranet portal program such as LegalAnywhere to integrate with their DMS. These allow you to enable clients or collaborators to view or edit selected documents, including with very granular security.

All these functions will become increasingly important in the future. While you may not choose to

implement this functionality at the present time, you should make sure it is available for future use.

Brief Banks/Forms

Most firms do not take the time and effort to create brief banks, boilerplate or form documents. Instead, attorneys “recollect” a similar document that could be modified for a new case. This process is prone to error (“old” language overlooked and left in the document by mistake). And not only are memories faulty, but this process leaves the firm without “firm-standard” boilerplate for certain purposes. In addition, standard form documents can serve as a valuable resource in training new attorneys: “this is how we have resolved this issue in the past and here is why.” This issue is dealt with in more detail below.

Training

Most document management systems are sufficiently easy to use that many firms do not feel training is necessary. However, in the process of “hand crafting” ways to keep track of documents in the past, users will inevitably have created procedures for naming and storing documents that may have been useful to specific individual users, but are either not necessary, inefficient, or even counter-productive in the context of a document management system. In addition, most users do not get the most power out of the program’s capabilities. One of the biggest challenges when training users on a DMS is the conceptual shift from using a manual approach (scrolling through subdirectories) to using an index with extended search capabilities. It may help if users think of a DMS as “Google for your documents.” As with any other program, adequate training can multiply the effectiveness of a document management system many times.

Followup

Followup can be just as important as the initial training. One of the problems with any rollout is

that after the initial training, users get “up to speed” and are able to do their basic work. However, very rapidly, the minimum they need to know to get their work done becomes the maximum they actually do know. And over time, that knowledge tends to shrink due to natural entropy (the tendency of any system or body of knowledge to deteriorate without outside input). Most users do not explore further, increase their knowledge or find better ways to do things. There are two kinds of followup that I recommend. First, after the initial rollout and training, circulate items from a “Tips and Tricks” list via email about two or three times a week for a month or two. This has two functions:

- First, it reminds users of things they may have heard during training but forgotten. It tends to

both reinforce training and expand their knowledge at an early stage (it is much more difficult later on).

- Second, it encourages them to believe that people are paying attention, willing to address issues, etc. It encourages users to ask more questions and helps fight passivity.
- The second is to sponsor “brown bag lunches” on an ongoing basis, perhaps every three or six months, where particular topic or topics are explored. Again, this serves to reinforce and expand knowledge, and because one person’s question will have actually occurred at some point to several people, you get a reinforcement effect that tends to expand users’ knowledge and help keep all your users on the same page.

Basic Functionality

Searching

What do you do when you want to find a document if you are not using document management? Obviously if you remember where you put it, that’s great. But what if somebody else worked on it initially, how do you know where they put it, how they named it, or whether they just put it in on their C: drive in “My Documents?” Sooner or later, you have to search for a document.

Think of the sum total of your firm’s documents (generally referred to as the “document store”) as a huge book. If you want to find a particular document (chapter, passage), there are several ways to proceed.

1. You can read the whole book. This is what the Windows search function does. As one potential client said to me: “I don’t have a problem with this – I just start the search and go get a cup of coffee

and by the time I’m back, it’s done.” May be. But pretty wasteful of valuable time – besides, how many cups of coffee can you drink in one day?

2. You can look through the table of contents. This is like looking through the directory structure (assuming it is organized in a reasonable fashion). Better, but still pretty time consuming on a regular basis.

3. You can look in the index. This is what you do with full-text desktop indexing programs like Google or Yahoo. However, these programs may not index all your files, and they likely will not index files on your server. The problem with these searches is that they cast a

very broad net: you have to check the “hits” and if you are not careful you get many more hits than you really want. There is no easy way of adding a “matter” category to narrow down the search. As anyone who has done substantial research on the Internet or

You should be able to search for e.g., “all the pleadings for Client X done in the last six months containing the term “excited utterance.”

on-line services like Lexis or West law knows, this kind of search is a fine art.

4. You can specify “look in Client X's files for the Chapter called 'Pleadings' for the term 'excited utterance'.” Or, find all the retainer agreements with a specific term in them. This is what a true document management system like Worldox does.

Good searches start with good naming conventions. The trick here is to put anything unique about the document in the description. If you want to do a more extensive “key words” listing, use the comments field. You do NOT need to put *e.g.* “letter” or the date or the client matter number in the description, since these can be searched for in other fields in your profile. You might want to put the client name, or the name of the person a letter is addressed to in the description. If a brief deals with particular or unique points of law, put those in the comments area.

When searching a DMS you can combine profile and field information. For example, you can combine a search in the description field with full text search in the text field and/or limit a search to a specific client, time period, etc. Most DMS's also have full boolean search capability (AND, OR, NOT, A within X words of B) just as you would have with Lexis or West. Some examples:

accident AND liability – will find documents containing both those terms (in the description or as a full text search)

accident NOT liability – will find documents containing “accident” but not “liability.”

Rost* – will find any word starting with “rost” (such as Rostropovich). This is useful if you are not sure about the spelling or you want to find variants of words. Some programs offer “stemming” or “sounds like” capabilities. However, this may significantly increase the size of your index and your response time. It is not always clear that this functionality is worth it.

accident w/10 amputation – will find occurrences of “accident” within 10 words of “amputation.”

Searches should search across all your different types of information: documents, scans, faxes, email, saved Web pages, and be able to combine profile (client/matter) information with types of documents and full-text searches.

Lastly, for people who have to consult certain form documents frequently, or administrators, bookkeepers or HR personnel who want to be able to consult certain forms, spreadsheets, etc. on a regular basis, a “quick and dirty” solution is to put a unique code in the description field, such as “yyy.” If you do a search for “yyy” you will find all the required documents. You can then also create a bookmark for that search so all your common documents can come up with a single click of a button. This is the equivalent of putting specific frequently-used documents on the desktop.

Viewing Documents

A good document management system will let you view documents without having to open them. When you see the list of documents a search has found, you should be able to open a viewer and scroll through the documents without having to open them. This can be a great time-saver (although typically you will not be able to view passworded documents).

In addition, you should be able to cut and paste text from the viewer into whatever document you are working on. So instead of opening a second document, finding the text, cutting and pasting and then closing the second document, it can all be done through the viewer.

Lastly, if you do a full-text search, the viewer should open to the first “hit.” So if the first hit is on page 25 of a 30 page document, you should be able to see it right away and not have to redo a search within the document. Desktop search applications generally also do this.

Archiving

Archiving used to be an issue in the days of limited disk space. Today, when you can get a 1 Terabyte drive for under \$200, this is no longer the case.

However, you may still want to archive files to ease the load on your index (which typically takes up about 20% of your total document store). It is important to be able to store your archived files off-line, on a NAS device or elsewhere. You will also need to have ready access to archived files if needed.

Audit Trails

Many people initially say “why bother with auditing.” There are basically several types of answers to this question, all having to do with administrative functions.

First, if you come in one morning and find that a given document has been badly bolloxed up, you can find out who last worked on it and better figure out what happened. The audit trail lets you see who exactly has been working on a document.

Secondly, for administrators who wish to track the activity of specific users, you can see what a given person has done for a day or time period. You can also track whether employees have checked a document out, copied it off-line, etc.

Third, if a user complains that a document is “lost,” the archive trail may be able to help to you find out what happened to it.

Security

Generally speaking there are three categories of security, that is, three types of things to guard against:

- Carelessness. Users delete a file by mistake, drag & drop to the wrong place (and then the file is “lost”), etc.

- Hostile users and random intrusion. Somebody has decided to quit and says to themselves “let’s see how much damage I can do.” Someone else sees a spreadsheet labeled “personnel salary schedule” and says “gee, let’s see how much everybody makes.”
- Targeted intrusion. This is the equivalent of industrial sabotage and is generally not much of an issue for smaller firms. It can be an issue for larger firms with high-dollar clients, cases, etc. For example, trusts and estates work for the very wealthy; high-end mergers and acquisitions, and so on.

So when you speak of “security” you have to keep in mind what level you are speaking about. Also, remember that the more secure a system is, the more annoying it is to use (witness the Windows 7 UAC settings).

The ability to password protect a document can be useful although subject to a number of limitations. Commercial password breakers abound, so although a password may protect the document from casual intrusion, it does nothing to protect against determined intrusion.

Document management systems typically allow for very granular security, so that a firm can, for example, prevent all but designated users from deleting files. And since everything goes through the DMS, “drag and drop” errors are eliminated.

A second level of security is to assign a specific document to a group of people, or make it read only to everyone else. This gives both accessibility to the proper people and prevents casual errors such as saving a form or boilerplate document with revisions instead of doing a “save as” and making it a new document.

You can also create different profile or template groups and store the documents in entirely different locations. This is appropriate for example for Accounting/Bookkeeping; Human Resources, the firm’s Managing Committee and similar types of

function. Only certain people even see those documents in the first place.

Many systems offer very granular security, including the ability to create an “ethical wall” so that only specified users can see certain matters. This is frequently a good way to deal with personal documents as well.

Lastly, many document management systems tie in with Active Directory, and apply security settings determined by the DMS to the specific files or directories using Active Directory.

Taking it with You

So you have a Paperless Office (or nearly so). All your emails are saved, documents, incoming items that have been scanned, etc. Since copies of files will inevitably be taken outside from the firm, you need to establish policies governing how off-line documents will be treated.

As part of this policy, the firm should consider security provisions for laptops and USB keys, especially in view of the number of laptops that are stolen every year and how easy it is to lose a USB key. At a minimum, data taken on a USB key should be encrypted.

You want to take your whole case with you to court on a laptop, CD, DVD, etc. There are a number of

options for accomplishing this, depending on what your current configuration is.

Larger firms with a higher volume of litigation, will have invested in a true litigation support/trial preparation software such as CT Summation, TrialWorks, or Verdict Systems “Sanction.” So the question really comes up only if you need to do this on a less costly scale.

If you are using a document management system such as Worldox, you can simply export the entire case to the hard drive of your laptop (or even a flash drive), and retain all the organization, searching, etc. of the DMS. This is by far the easiest and most efficient way to proceed. In fact, if you need to take an entire case to court on a regular basis, it could be a decisive reason to invest in a document management system.

If you have a do-it-yourself handyman’s solution, you can copy the entire directory containing the case. Or better, use one of a number of tools available to synch the directory in question either with your laptop or an external hard drive. Putting in on an external hard drive has the advantage that you are not dependant on your specific laptop, you can access the files from anywhere. The big disadvantage is that they are easier to lose.

However, this solution then raises the issue of how you efficiently organize and search for files. You can use Copernic or a similar solution to full text index the files, but this does not allow for any other organizational principle (i.e., by client or matter).

Email

General

With the exponential growth of email, the ability to manage email messages is critical. Integrating email (and attachments) into a single document store together with documents generated by the firm,

scanned documents, discovery documents, and so on, becomes ever more essential. To really merit the name, any document management system must adequately integrate email.

One key issue here is whether you can work with your entire email inbox and subfolders, or whether the system will only deal with your inbox. Can you send email messages alternatively from the document management program or just the email system? The ease of automating the process of moving emails from your email system to the document management system is also extremely important for a system to be successful. Finally, there is the critical question of which email systems the program will integrate with. Most currently do not integrate with anything much besides Outlook and GroupWise, although Worldox will also integrate with Lotus Notes. Hopefully, at least partial integration with programs such as Gmail and Thunderbird is in the wings.

There are two separate issues here: dealing with future email (easy) and dealing with the masses of past email, including archived email (harder).

To really merit the name, a document management system must adequately integrate email.

Saving Outgoing Email

Saving outgoing email is relatively simple. The DMS intercepts outgoing email (for example, by watching the “sent items” box) and asks you what you want to do with it: copy or move it to the DMS, ignore it, etc.

By tracking emails and constructing what Worldox terms “quick profiles” you should be able to automate this process so that an email to person X is assigned (either automatically or by asking the user) to the same client/matter as previous emails to this person.

Some systems automate this more fully than others, but the automated systems (including some of the Practice Management programs such as Amicus or Time Matters) tend to make mistakes: for example, what if you regularly email the same recipient but pertaining to several different matters (which might be common in real estate or similar practices)? How

does the system “automatically” know which client to assign the email to?

However, Quick Profiles or similar systems do let you partially automate the process. They are also extremely useful in moving old emails to the DMS: properly set up, you can drag and drop multiple emails (in some cases hundreds at a time) to the Quick Profile and have them moved to the DMS.

Saving Incoming Email

Saving incoming email is much more complicated than saving outgoing email and is generally done manually. Consider your incoming email: personal items, spam, business email. Email from the same person may relate to different matters: how does the system decide how to allocate that email?

Generally speaking the programs that have more robust capacity for automating the saving of incoming emails, such as Interwoven, do so at a significant additional cost. It is also frequently error-prone, so it would need to be examined carefully before being implemented. Depending on your volume, this added automation might be a reason for adopting one of those programs.

Saving Existing Email

Careful attention should be paid to the process of getting existing emails into the document management system. Many attorneys use Outlook as a junk catch-all, and it is not unusual to find an attorney with 5-10,000 emails in Outlook in a completely disorganized fashion.

This will likely be an area of considerable attorney resistance. Many attorneys are too used to working in a specific way and using Outlook as their “document management” system. On the up side, most attorneys readily see the tremendous advantage to the fact that all emails concerning a specific case or

matter will now be available to everyone with appropriate rights, regardless who sent or received them. No more additional emails asking who got the email or yelling down the hall to locate the email. In addition, if personnel leave or get reassigned to various cases, all the existing email is already at the new attorney's fingertips.

It is critical to make it easy to move existing emails into the DMS. Attorneys who find this prospect too daunting to even consider might be well-served to have a secretary or paralegal come in on a weekend and spend several hours doing nothing but organizing and moving, say, the last 6 months of emails to the DMS. In addition, you can set up what Worldox terms "Quick Profiles" so that once the initial setup is done, emails can simply be dragged and dropped to a specific matter without the need to fill out profiles.

Generally, there are two ways to proceed. If the attorney is an organized type, with client sub-folders in Outlook, or if the Firm has instituted public folders organized by client matters, then the emails can be batch imported into a DMS. I have seen people import as many as 3,000 documents in a single pass (though I recommend splitting it into smaller batches).

If the attorney is a disorganized type, try sorting the emails by sender or recipient. The chances are that most of the emails to or from a given individual belong if not to a single case, at least to a small number of cases. This greatly simplifies the process of importing them.

Another option would be to create a generic "email import" matter for each attorney and then import all the 2008 emails, 2009, 2010, etc.

Giving careful attention to these considerations can make your implementation much smoother and result in more satisfied users. Once again, buy-in is critical.

Accessing and Saving Archived Emails

When a DMS is being installed, clients frequently ask "what about my archived email?" There is a way to deal with this although it requires a bit more focus and concentration than "on the fly" integration.

The trick is to restore access to the archive folder and then go from there. In Outlook, select File | Open | Outlook Data File. Choose to open the "archive.pst" folder. If your network administrator has been storing archive files offline somewhere, you may have to negotiate for the ability to do this.

Your "archive" folder appears at bottom of the Outlook Inbox and folders list. You can then open it up and move those files into the DMS. Again, depending on how your network is set up, this may take some doing – but most network administrators will be more than happy to do anything that reduces the load on Outlook and the Exchange server.

Managing Email Attachments

Many emails are simple "transmittal emails:" "Attached is the following document." However, many of them also have content linked to the document: "Attached is the document. What do you think about the new section 27?" In the later case, you need to maintain the link between the two as part of an audit/evidence trail. So the question of managing attachments is as critical as the emails themselves. Practice management programs such as Amicus Attorney or Time Matters typically require that you save the email separately as a document before you save the email because the email record is saved in a database table. There are third party utilities that let you automate this process, but it is still an extra step and additional expense.

When you save an email from Outlook into Worldox, or other DMS, they save and index the attachments with the email. You can also save it

separately if you need to work on it. This has a number of advantages. First, it saves the email in a *.msg file (not as part of a database), so it is always accessible – there is no database table to become corrupted. Second, by preserving the link between the email and the attachment it leaves a trail that can be valuable or even critical when it comes to elec-

tronic discovery. Lastly, the process is much simpler and more streamlined than with most practice management programs.

Many firms send their scanned documents and faxes to specific users as attachments. In this case, the best procedure is to save the attachment separately and then just delete the email.

Scanning

A firm decides it “wants to start scanning” because that seems like the thing to do. But you have to define the content of this statement more closely.

What exactly do you want to scan?

- Documents for discovery? Aside from the fact that discovery requests are likely to increasingly require documents in their native format, this is an area that is most likely best handled by an outside service bureau. The chances are that in-house scanning (perhaps done by paralegals) is likely to be considerably more expensive than a service bureau with very high-speed scanners, dual 30" monitors, and so on.
- Every piece of paper that comes through the door? Most firms do not really want to do this.
- But if you do, then you have a major issue of how you distribute the scans. Physical mail is routed through a mailroom or secretaries. How will the scans be routed?
- Just the important documents that come in? Who decides this? What process is involved?
- For firms with relevant practice areas, doctors' reports or handwritten notes, accident reports, tax forms, property documents, and so on. That is, all the paper forms that just have to be imaged and not necessarily OCR'd. See below for more detailed information on OCR'ing.
- What do you want to do with historical data (How do I get rid of all those file cabinets and boxes in a data center?). Here again, this may be a prohibitive undertaking, but a service bureau may be the best solution.

Workflow

Workflow Issues – General

There are two separate types of workflow issues. The first has to do with how you organize the flow of work in your office, how you process scanned documents, how you notify people that documents need to be worked on.

The other is concerned with routing documents to various individuals. The classic examples were those old routing slips attached to print magazines: when you had read the magazine, you check off your name and send it on to the next person. Another example has to do with approvals of, for example, travel or other expenses.

The requirements for this type of workflow have changed somewhat in the electronic age and are generally the subject of separate modules or add-on applications to document management systems. Worldox has recently introduced a “Productivity Suite” which features a workflow application. This is dealt with in more detail below.

Workflow Issues – Email

An issue that comes up increasingly is how to manage workflow and collaboration. On a primitive level this seems easy: you exchange documents, mark them up, make changes, etc.

It’s when you have to organize them that problems arise. Document management systems provide an initial basis for collaboration by organizing your documents and implementing version control. This lets you see which “versions” of document are saved on different dates and by whom. To the extent you are exchanging documents within the firm, you should be able to email just a link to the document: various people can then make their changes and save them as different version. This works on a one-to-one basis.

Very often, however, firms are exchanging documents to outside counsel via email. They then get revised versions back through email. You want to have the ability to save those returned documents as versions of the original document. Ideally, the DMS should be able to recognize that the return attachment is a version of the sent document and treat it accordingly

The next level comes with the need to perform some sort of document comparison/track changes function. If Word’s built-in functionality is adequate (for many people it is not), fine. Otherwise you will need some third-party add-in such as DocsCorp’s

CompareDocs, iRedline from Esquire Innovations or the 800 lb. gorilla, DeltaView/Workshare.

Perhaps the most difficult subject, however, is exactly how do you exchange documents? And what if multiple people are making simultaneous revisions? You have an initial document. Version 1 is created by editor 1. Version 2 is created by editor 2 but does not incorporate the change of Version 1. And so on. This scenario can get very complex very quickly. Generally, somebody has to coordinate all the changes (by hand).

You need a good workflow:
You can’t automate chaos.

As a frequent proponent of “less is more” I was intrigued by the suggestion, in the recent book by

Dennis Kennedy and Tom Mighell, *The Lawyer’s Guide to Collaboration Tools and Technology*, that you put the entire document in a table with the text in the left column and comments in the right column. This makes it easy to look at the comments and relatively easy for somebody to coordinate the changes.

Workflow Issues – Scanning

One of the main problems in the process of going “paperless” (or “PaperLESS” as Ross Kodner liked to say) is the thorny issue of workflow. As scanning becomes more and more prevalent, there are a significant number of workflow issues that need to be addressed. The bottom line is that if you are dealing with a large number of files, it is imperative to set up the workflow correctly, otherwise you will wind up wasting hours of time.

The first issue is the question of large-volume vs. desktop scanners. Copier companies are increasing selling scanning modules. These are very fast, and ideal for large documents, but they suffer from two defects. First, they are inefficient for small volumes, since the user has to get up from their desk, go to the scanner/copier, reset it, scan (usually to the network, sometimes emailing the scan to them-

selves), then reset it back to copying, return to their desk, retrieve the document and save it.

The second issue is that while high-speed scanners claim to produce “PDF”s in fact they are frequently producing image-only PDFs, which cannot be text searched. Therefore a second piece of software is usually required to OCR the PDFs so that they are text searchable. This should be determined when considering the purchase of one of these machines.

If you have a desktop scanner, the situation is somewhat better, since you will be able to scan directly to PDF, then save the PDF file wherever you want.

For most firms, the best solution is to use both: use the large, fast central scanner for big jobs and a smaller desktop scanner for shorter documents such as letters. This also means that the person processing and scanning the mail (for example) does not have to get up from their desk to scan small items.

Where are you going to put the scanned documents and how are you going to organize them? How do you route today’s scans in a fashion analogous to routing physical mail? At this point, the need for a full-fledged document management system such as Worldox, Interwoven’s Worksite or OpenText’s eDocs becomes critical. Otherwise the volume becomes overwhelming and as someone said, you can’t automate chaos.

There are three or four logical steps when you scan a document:

- (1) Scanning the document, i.e., running it through the scanner;
- (2) OCR’ing the document (this is the most time-consuming part of the equation); and
- (3) Saving the document to the DMS or elsewhere.
- (4) Finally, depending on the implementation, deleting the original scan to avoid duplicates.

For some documents you can omit step two (receipts, handwritten notes, etc.), but if you want the

resulting document to be searchable, you need to OCR it, and this is the most processor-intensive and time-consuming piece of the equation. Since the whole point of fully automating your document store (documents, scans, emails) is to have everything searchable, this should be done an overwhelming majority of the time.

When you consider the entire operation, to the extent that you can off-load parts of this process to a background or automated function, you can save significant amounts of time.

Step 1. Actual scanning. If you use a large-volume multi-function machine as scanning, there is the workflow issue indicated above. People have to get up from their desk, go to the scanner, scan, go back to the desk and save or manipulate the scanned document. Due to their high scanning speeds (sometimes hundreds of pages per minute), multi-function machines are good for big documents, but quite inefficient for, say, one-page letters.

Step 2. OCR. This is the most time-consuming part of the process and the part that it is easiest to off-load to an automated background operation. The major OCR programs, Abbyy and OmniPage, let you set up a “watch” directory and you can then schedule the OCR, even for off hours. Larger-scale programs such as eCopy or pdfDocs will also let you do this. However, many larger copiers scan at a lower resolution (100dpi) that may prevent high-quality OCR’d copies. You should be scanning at 300dpi.

An add-on program to Worldox, Symphony Suite (from Trumpet, Inc.) lets you OCR documents that have been scanned into Worldox in the background while keeping the Worldox document number.

3. Saving to Document Management. If you are using Worldox and the eCopy cost recovery system, an elegant system is available from Loffler www.loffler.com. The “connector” takes over the scanning process, when you start the scan, you profile it into the Worldox system. There is no

“middleman” or interim process. Depending on volume, it can be well worth the cost. <http://connectors.loffler.com/>

Other major copier makers (Xerox, Ricoh, Konica, Minolta) may have modules that integrate directly with document management systems, albeit at a sometimes significant additional cost. The Fujitsu line of desktop scanners integrates directly with Worldox at no additional cost.

There is software available that will considerably automate this process, but the user is still left with the chore of retrieving the document and saving to a document management system or to some other specified location.

Many firms “scan to email” and then have each user save the scanned attachment individually. While this has certain advantages (the user knows where the attachment belongs), it is less efficient on a large scale and should be reviewed carefully.

4. Cleanup. Unless you adopt a large-scale solution, you will be left with the task of cleaning up the intervening scans after they have been saved. If you use HotDocs, more recent versions have a pdf driver that will let you save successive scans to the same document name. You can then “Save As” and put the document into the document store without worrying about it.

Obviously, not all of these options apply to everyone, but adopting even some of them can make your process a lot more efficient. The most important thing is to look closely at workflow when implementing scanning.

Workflow – Forms Approval

There is another form of workflow that a document management system may either not handle or handle only with a costly additional module. That is routing forms, applications, and so on to various parties for review and approval. This is an area where the “static” DMS’s such as Laserfiche tend to be superior because they have developed proprietary routing mechanisms.

Worldox recently introduced a “Productivity Suite” which includes a Workflow module. This lets a user route one or more documents for review/approval. The routing can be either broadcast (everyone gets it at the same time) or sequential (person 2 gets the document only after person 1 has dealt with it.). Since the routing takes place within Worldox, users can see the status of the workflow when they look at the document display list.

A voting option allows for a document to be “approved” if a certain percentage of the recipients agree.

Other

Brief Banks – Why Aren’t They More Common?

Every time I set up a document management system for a firm, I try to encourage it to create a “Brief Bank” or “Form Bank” – a set of standard boilerplate and forms that incorporates the best language and provisions that the firm has come up with over a period of time.

Doing this fulfills four main functions:

1) It standardizes the forms, contracts, agreements, responses to interrogatories, etc. that the firm uses. In so doing, it also improves the overall quality of the firm’s product, since it helps ensure that somebody does not re-use an old, outdated or superceded document. In many firms, individual users have their “own” forms – consolidating them would obviously be to everyone’s advantage. Of course this

does not address the issue of dysfunctional firms where one attorney wants to use one font, and another attorney insists on a different font (and the same with forms, provisions, etc.).

2) It increases productivity, since attorneys do not have to rely on their memory and “hunt around” for the most appropriate document in a given situation.

3) It decreases errors (thus also increasing productivity). An attorney longer has to worry about forgetting to change certain names, pronouns, etc. since it would be a “fill in the blank” type form.

4) Training. A brief bank provides excellent training for new attorneys: “here is the language we have worked out for this kind of motion and here is why.”

Despite the overwhelming arguments in favor of doing this, very few firms seem to get around to it, although many paralegals have developed their own standard private forms. Why is this?

I believe it is largely due to the well-known fact that when considered as business propositions, many smaller firms are very poorly managed. Law Schools do not have courses in managing a business. In particular, they almost never have a technology plan, or consider even an approximate Return on Investment analysis of a new system. This is, however, changing due to increased pressure on law firms to increase productivity.

A more far-sighted analysis was provided one time in a firm I was working for. When I suggested a new software program, the name partner thought about it and said “No, I don’t think we can do that right now, but keep the suggestions coming because every software program I DON’T own presents a potential competitive advantage to adversary law firms.”

Document Assembly

Although document assembly programs and routines are not part of document management per se, it is worth considering them at the same time, since they are arguably the area that provides the single

greatest savings of time and increase in productivity and quality of the final product. Yet many, if not most small firms do not avail themselves of this functionality.

Full-blown document assembly programs such as HotDocs can be fairly pricey to implement. On the other hand, I had a client that did Estate Planning who spent close to \$5,000 developing a wills package. But the end result was that it cut the time it took him to generate the package from over an hour to about 3 minutes! He rapidly recovered the expense.

In the past several years, a number of additional programs have appeared to challenge HotDocs’ domination of the document assembly field.

XpressDox is a full-fledged document assembly program that is inexpensive and relatively easy to use.

Pathagoras is a lower-end “clause assembly” program. You define the various clauses you may use for different types of wills or other documents. To create a document you then pick the clauses you want to use and the document is assembled.

For a much more extensive review of Document Assembly options, see Seth Rowland’s web site at www.bashasys.com.

Even without investing in a program like HotDocs there are a number of lower-end document assembly approaches that will save tremendous time and money.

If you are using a practice management program such as Amicus Attorney, Time Matters, or Practice Master, use the built-in document assembly routines. These will enable you to pull information already in the program and insert it into templates.

Even without these, develop templates in Word or WordPerfect to automate letterhead and basic letters (everybody does retainer agreements!). Even a small investment here will result in dramatic savings,

including the cost of pre-printed letterhead and having it reprinted every time there is a change.

Lastly, “auto-text” programs such as Active Words can be used to automate entire clauses of letters, a kind of primitive document assembly. Thus you type “sig” and Active Words expands this to the final blurb paragraph (“please feel free to call me at.... if you have any questions concerning this matter”) as well as your signature block.

Collaboration

Collaboration and ways to manage it is a hot topic. However, all the discussion of technical ways to manage collaborating on a document (such as putting it up on Google and letting everybody work at it), obscures a basic fact of law firm life: the practice of law is fundamentally adversarial.

Thus there are two flavors of collaboration: adversarial and non-adversarial.

If you are collaborating on a document or agreement, ask yourself: does the person you are collaborating with represent your interests or those of the other side? The types of openness and collaboration you are likely to be willing to engage in differ dramatically depending on the answer to this question. This fact is recognized by metadata management programs such as iScrub which lets you adjust the amount of metadata is sent along with documents being emailed as Active (standard firm defaults), Cooperator and Adversary.

Within larger firms, where associates are engaged in a frequently no-holds barred struggle to see who makes partner, “collaboration” is always tinged with a healthy dose of competition.

So while collaborating on documents is essential,

before jumping on the bandwagon, how you collaborate should be calibrated by an acute awareness of *with whom* you are collaborating.

In the past several years a number of forms of cloud-based collaboration have come into being.

The original one is Google Docs, which lets you store documents on the web and define who has access to them.

A second series of programs, including DropBox, Box.Net and Smartsync are more robust. These programs let you synchronize a folder on your local PC with the corresponding “folder” in the Cloud. A variety of options are available in terms of security and who is allowed to do what. Be very careful about security, since DropBox in particular has had security issues.

LegalAnywhere provides a powerful Extranet/Portal addition that integrates with many DMS’s.

These programs are not generally network-based and do not directly integrate with a DMS. However, a workaround would be to export selected files for a given client or to a client directory on your local PC. You could then synch that directory with DropBox or other program.

Of course, if the client (or co-counsel, etc.) edits the document, you would have to re-import it into the DMS as a version of the document you originally exported. So this is a workaround, but should be effective on a small scale.

These programs can also be useful to set up an “electronic war room” in large litigation. You upload a number of files to a given location and give co-counsel or other people involved in the case read-only rights to the files.



Appendix

Programs Referred To

Dedicated DM Programs

docStar
Document Locator
Documentum
eFile Cabinet
Opentext (eDocs)
Interwoven (Worksite)
Laserfiche
NetDocuments
Worldox
M-Files

Web Site

<http://www.docstar.com>
<http://www.documentlocator.com/>
<http://www.emc.com>
<http://www.efilecabinet.com/>
<http://connectivity.opentext.com>
<http://www.interwoven.com/>
<http://www.laserfiche.com>
<http://www.netdocuments.com>
<http://www.worldox.com>
<http://mfiles.com>

All-In-One (Optional DM)

Amicus Attorney
LegalFiles
Office Tools
PerfectLaw
Practice Master
ProLaw
Time Matters
TrialWorks

<http://www.amicusattorney.com>
<http://www.legalfiles.com>
<http://www.officetoolspro.com>
<http://www.perfectlaw.com>
<http://www.stilegal.com>
<http://www.prolaw.com>
<http://www.timematters.com/>
<http://www.lawex.com/>

Other Programs

Abby FineReader
ActiveWords
CompareDocs
Concordance
DeltaView/Workshare
eCopy
HotDocs
inMailX

<http://www.abby.com>
<http://www.activewords.com/>
<http://www.docscorp.com>
<http://www.lexisnexis.com/concordance/>
<http://www.workshare.com/products/wsdeltaview/>
<http://www.ecopy.com/>
<http://www.hotdocs.com>
<http://www.digitus.com.au/inMailX>

iRedline	http://esqinc.com/section/products/3/iredline.html
iScrubLoffler	http://esqinc.com
Connectors	http://www.loffler.com/services/
Symphony Suite	http://www.trumpetinc.com
OmniPage	http://www.nuance.com
Pathagoras	http://www.pathagoras.com
pdfDocs	http://www.docscorp.com
Sanction by Verdict	http://www.verdictsystems.com/
Summation	http://www.summation.com/
XpressDox	http://www.xpressdox.com