

Legal Technology Tools to Modernize Your Office

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Inside Counsel

There's a not-so-secret stereotype of lawyers that says they're averse to technology, an old school bunch happier in dusty law libraries than surfing LexisNexis. "We've worked with very large, billion-dollar companies with contracts stored in filing cabinets," says David Munn, general counsel of Pramata, a contracts management company. That image has moved further and further from reality in recent years, as top law departments turn to cutting edge technology and even the smallest departments experiment to build efficiency and save time and money.

"Although traditionally the legal industry has adopted technology at a measured pace, economic pressures and the risk and increasing costs of litigation are actually forcing law departments to be more aggressive about bringing solutions in-house or revamping," says Tom Rump, general manager for CT Summation, CT's discovery arm.

Budgets are still tight, but vendors are reporting an increase in corporate interest in their products.

"'Spend two dollars today to save in the future' is certainly a hard notion in the first place," says Michele Lange, director of legal technologies for technology and service provider Kroll Ontrack. "But now is definitely the time to do your planning—perhaps not to make a purchase but to be ready when things do loosen up to know what move you would make."

Document Review

Case law is quickly developing to make clear the importance of proper discovery practices, and vendors are working quickly to offer solutions to all types of compliance needs. But still, many corporations are lagging behind in the discovery area.

"You find these big companies that haven't begun to grapple with the issue," says Adam Cohen, senior managing director at FTI Technology. "The Morgan Stanley case is a great example of that—thousands of backup tapes lying around, and no one knew exactly what they were, which led to all types of litigation. More often than not, companies don't have their acts together."

But if you've been avoiding the issue, continuing to put off the problem will make things exponentially worse. As time passes, needs will only grow in volume and complexity.

"In-house counsel are tested every day because the volume of documents companies are dealing with is exploding," says Bryant Bell, senior director of marketing for CT Summation. "Only five or six years ago, you mostly had to worry about scanning documents. Now it's e-mails, texts, IMs, electronic financial systems. This is mind-blowing to many law departments."

Luckily, there is an endless array of technology out there to help, and it's cheaper than farming everything to outside counsel.

Review is the costliest part of discovery, but because of that it offers the most opportunity for savings. Laura Kibbe, senior vice president for Epiq Systems and former in-house counsel handling discovery for Pfizer, says typically discovery is 30 percent of the overall corporate legal budget. "In discovery, hands down the most expensive area is review," she says. "Lawyers are

generally technology-light. But anything that can speed up reviewers and improve accuracy is where the technology is targeted and where it's most effective for today's lawyers."

In particular, grouping and prioritization technologies are making linear review a relic of the past except in the smallest cases.

Duplicate consolidation. If a VP e-mails five employees, at least six copies of that e-mail then exist for discovery purposes—and thus, for billing purposes. "Deduping" software identifies that they are the same and consolidates them into one set. Although it's clear how much all these fewer review documents could shrink an hourly bill, a study by the E-Discovery Institute found only about 50 percent of law firms use such software—but when they do, savings can reach 70 to 80 percent. One method is to consolidate within a single custodian's records, but the more effective route is to do so across custodians. If you only dedupe the VP's records, the e-mail will still exist within the five employees' records.

E-mail threading. Let's say that after the VP sends the e-mail, a few of the employees reply, starting a conversation. Threading technology looks at the e-mails' content and metadata to group all those messages into one e-mail chain for review. Joe Howie, a director at the E-Discovery Institute, founder of Howie Consulting and former in-house counsel, says the average savings is 36 percent, "and in some cases, considerably more."

Prioritization. Wouldn't it be a time-saver if the very first document reviewed was the silver bullet in your case? Prioritization software can get you closer to that goal by using keyword searches to group documents by topic ("concept-clustering") and rank them from least to most important. "The priority is to get the most critical, relevant information into the hands of the trial team as soon as possible," Kibbe says. Epiq offers such a tool. "There's a debate going on right now about whether to review the rest of it." Depending on a company's level of risk-taking, for example, it might offshore review of the low-priority documents.

Next

Greater automation in review is the next logical step. E-Discovery Institute studies have shown that when multiple human reviewers review the same documents, they rarely agree more than 80 percent of the time, Howie says. Such inconsistency could lead to mild inefficiency, but in the worst case it could mean disasters like inadvertent privilege waivers.

"It's kind of like the emperor has no clothes—people don't like to talk about it, but the fact is that human review isn't necessarily the best way of doing it," Howie says.

The next generation of review tools tries to remove more of the human element, and thus some of the error. "This is really cutting edge," Cohen says. FTI's Acuity is one such tool. "It essentially uses predictive coding. The computer learns from viewing relevant documents and can find other ones like that. It's really fascinating technology and really controversial."

In recent years, companies like H5, Xerox, DiscoverReady and Recommind have also introduced tools aiming to eliminate a first pass review, but the thought of removing human eyes from that process is still new. Howie encourages corporate counsel to fund or provide data for research on document review methods. "It could have a big impact on having a more programmatic review," he says. "If corporations could help shorten that adoption curve it could save literally millions for them."

Matter Management

Now

Software is now used by law departments to manage pretty much anything, from litigation to legal spend.

Contracts. "Lots of information can show up in contracts in a lot of different ways—there are a lot of ways to draft contracts," says David Munn, general counsel of Pramata, which offers contract intelligence solutions. "The challenge is how to find all that information that can be stated in many different ways and found in many different places."

Services like Pramata's use technology as much as possible to cull information from the contracts before turning to an offshore team of financial and legal professionals to read through the contracts for all the information stated in nonstandardized ways. Then Pramata works with clients to build a map of contracts in family tree form, giving a clear view of how different documents are related. The information is easily and instantly searchable—a huge timesaver.

"That's the kind of thing you can turn an army of lawyers and paralegals loose on, and it might take a week to find that information if you don't have a way of searching your contracts for it," Munn says.

Patents. Dolcera offers a dashboard tool that compiles patent landscape information in a clear and accessible format, cutting out costly freedom to operate searches by outside counsel, or the possibility of stepping on another company's toes. It also leverages free tools like Google.

"One of the trends we've noticed is more democratization of information," says Samir Raiyani, CEO of Dolcera. "Having technologies that are easier to use for sharing within an organization, which also complement free tools like Google, can really go a long way now."

The question is whether patent departments are taking advantage of such tools.

"Patent law has a belt and suspenders mindset, and a lot of people feel uncomfortable letting go of paper," says Mark Warfield, associate general counsel of IP at Johnson & Johnson. "Once you overcome that, things get a lot easier in terms of workflow, time and effort." Warfield speaks from experience—he's watched his company spread over the globe and his IP department grow, but it was still relying on a paper-based system until it turned to tools including First to File, a patent document management system, which acts as a sort of electronic file room.

"It's much like how people use Facebook—there's an area for everyone to collaborate as a community," says James Bergeron, CEO of First to File. "It's a repository for all different people to interact and process and prosecute the patents and for all the related information."

Corporate secretary duties. "Having an entity management system is key for corporate secretaries to maintaining good corporate governance and compliance," says Karlam Johansen, group product manager of CT Corporation's governance solutions. Such tools can give a clear view into the entity structure, ownership and directorship, or digitize minute books so they're easily searchable. They're also scalable—CT's hCue tool, for instance, offers various tiers based on number of entities.

"Once the conversation is started, it's not really a difficult or challenging proposition for corporate secretaries to embrace," Johansen says.

Next

Now that matter management systems are so common, the next emphasis will be leveraging those tools for the greatest possible interactivity and collaboration between all teams, the goal being greater service to the law department's client.

"The legal department is there to service the organization," says Shaheen Javadizadeh, vice president of sales at Mitrtech. "So we really need to foster cooperation between these business units."

He emphasizes that piecemeal systems don't foster such collaboration, instead suggesting software built specifically for the company. Law departments are working toward a totally streamlined system that automates as much as possible. Mitrtech, for instance, has a platform that automatically deploys legal service purchasing. "You don't have to spend time hearing about the issue, manually calling outside counsel or getting stuff in the system," Javadizadeh says. The tool assigns tasks to counsel based on level and area of expertise, further simplifying things.

Cloud Based Technologies & SaaS

Now

Cloud computing, or Software as a Service (SaaS), is a breakthrough for small and budget-constrained law departments. Rather than hosting software behind the firewall and handling it internally, corporations are seeing huge cost and time savings by using cloud services that host and service the software—and the necessary hardware—for them.

A good example is Getting Legal Done, a matter management tool born of collaboration between the Association of Corporate Counsel and Bridgeway Software. Designed for smaller legal departments, the cloud-based tool is a subscription service that doesn't even require a long-term contract. It gives small departments powerful tools without requiring considerable technology infrastructure or know-how.

Next

More and more, vendors are offering up cloud-based versions of traditionally user-hosted software, or combining the ideas.

"To our surprise, [interest in cloud-based services] is not limited to small clients," says Afshin Behnia, president and CEO of Mitrtech, which offers on-premise and SaaS platforms, as well as one that operates on both. "Lots of medium and large corporations are taking advantage of this as well because the benefits are common regardless of size—there's not the initial expenditure."

CT Corporation, CT's entity management and corporate governance arm, offers cloud-based, scalable hCue at a minimum expense. "It's different than a lot of past systems where people buy software at a set price and then have to provide the maintenance and hardware," says Jeff Iredell, national solutions manager for the company. "The capital expenditure is fairly limited—you're basically paying for a subscription for services you require based on what you want to accomplish."

CT Summation, CT's discovery arm, also has Web-hosted software as well as platforms hosted behind the corporate firewall. "We're seeing increasing concerns in the cloud era about data security and access," says Tom Rump, general manager of CT Summation. "But pure Web-based is at the cutting edge."

E-billing

Now

Over the last decade, e-billing has become a standard tool companies use to handle and pay invoices.

Next

More and more, companies are using the data those tools produce to optimize law firm and billing arrangements. "The information and the power of that information is something clients learn," says Nicky Mukerji, global director of legal intelligence for LegalBill. "Many have never seen information coming out of legal bills, and they're coming in for exactly the right reason."

Such data can add logic and direction to department cost-cutting and streamline internal processes. Vendors report huge interest in spend management tools—no surprise in this era of tightened budgets.

"In the new economy, one of the things that's been significant outgrowth of the past two years and recessionary economy is the need for corporations and corporate legal departments to look at themselves more as a business, how they run as a business and therefore how they become more efficient and cut costs," says Diane Brown, executive vice president and general manager of CT Corp.

For more on how corporate law departments are putting their billing data to work, see April's Technology story, "[Building Blocks](#)."

Vendor Relationships

Now

When Laura Kibbe handled e-discovery for Pfizer, she was one of the company's first in-house counsel to insource discovery operations. That was 2003, and the concept is now in use well beyond Pfizer, reaching a fever pitch in recent years. Fifty-eight percent of large-cap companies and 69 percent of retail and wholesale companies are keeping at least some aspects of e-discovery in-house, according to Fulbright & Jaworski's October 2009 Litigation Trends Survey.

"In 2008-2009, especially among corporations, the push was finding some kind of technology to bring in-house, like gathering and searching files and e-mails," says Kibbe, now a senior vice president at Epiq Systems. "That was sold to many corporate legal departments as the answer to their prayers, but now they're finding that there are a lot of things beyond technology that go into keeping e-discovery going behind the firewall."

Mark Warfield, associate general counsel of IP at Johnson & Johnson, solved a similar matter management issue with outsourcing. When his department started using the First to File patent dashboard system, he had to clear a few hurdles before reaping the benefits. "I underestimated how much time it actually took to upload documents to any electronic system," he says. "In the paper world, you two-hole-punch it and put it in the file. When you put something in an e-document system, you have to tag it with metadata, so after implementing the system we quickly fell behind in uploading."

Warfield's solution was to offshore that extra work—in a sense, insourcing and then outsourcing it. Now a team in India with access to J&J's network and First to File dashboard can load documents and sets of correspondence into the system with one- to two-day turnaround. (First to File also offers a scanning service.) In the meantime J&J notified agents to send things

electronically—now J&J's IP team receives about 90 percent of their documents in electronic form.

Next

Vendors report an increase in clients turning to them for more holistic services. As reliance on vendors grows, relationships are evolving as law firm relationships did.

Some of the trends being seen in vendor management are convergence and longer and closer relationships, demands for broader and deeper services and alternative fee arrangements.

At the same time, closer relationships and cutting edge technology are allowing corporate counsel to excise pricy outside counsel whenever possible. "Gone are the days when you should be paying top dollar or three figures for law firm staff to look at documents," says Michele Lange, director of legal technologies for Kroll Ontrack. "Instead, there are rich specialty organizations able to offer skilled staff in much more cost-effective ways."