

# Why the Legal Industry is Different...

...and why it's also the same

By Andy Moore, Editorial Director, *KMWorld* Specialty Publishing Group

Lawyers are different than you and me. And not just because they have their own category of jokes. (A Google search of “lawyer jokes” found 262,000 sites.)

No, lawyers are different because they work differently. For example, law firms have an entirely unique and proprietary view of “productivity.” For a law firm, productivity is measured largely by how much work the firm’s partners can avoid by sticking it to the worker bees (also called junior attorneys). Efficiency means something different to them, too. Efficiency is measured by how much of the junior partner’s work can be more or less automatically completed by re-using work that’s already been done before. And revenues are generated (and how!) by the degree to which the junior partners turn in all this replicated work while charging as though the senior partners did it. It’s a simple equation, and to accomplish it takes equal parts content management, knowledge management and chutzpa.

But there’s another key difference between “lawyers” and “everyone else”: No other vertical market is as dependent on what has come to be called “knowledge management” as the legal profession.

## Why the Law is Different

“The currency of the legal industry’s exchange is knowledge, and they’re driven to better leverage their knowledge assets,” says Andrew Pery, Worldwide Marketing Manager, Hummingbird Ltd.

Pery set the stage for our discussion by describing the driving factors for law firms in far less cheeky terms than I used at the beginning of this article: “Law firms are driven by three key business criteria: One is billable hours; second is the ratio between partners and attorneys; and thirdly is the ‘realization’ rate, which is the extent to which they can maximize revenue from billable hours.”

(How come when he says it, it sounds so good? But when I say the same thing, I sound like an insufferable cynical snob? I guess that’s why he’s “worldwide marketing manager” for a major content management company and I’m ... not.)

“Because the law industry is so people-intensive, law firms must apply knowledge-enabling technologies and find ways to share their knowledge,” Pery continues. “They should be transforming themselves from being a knowledge-hoarding culture—where every partner has his practice area and they don’t share information—to sharing information if they want to compete globally. And it is becoming a highly competitive environment.”

It’s not a question of sweetness and light; it all goes back to those three driving factors—billable hours, resources and realization. “If a new attorney comes into the practice, knowledge sharing will allow him to

ramp up to speed that much faster, become more productive and therefore increase billable hours.”

Law firms survive by replicating previous work, from precedents and case law all the way through to best practices within the firm. “If you can complete an M&A transaction faster because you’ve got skill sets that can be re-deployed, then you increase the higher value ‘partner’ billable hours, and at the same time the junior attorney can undertake more activities in less time.”

Besides the fundamental cultural change required by this new view of the law firm, there is an organizational imperative, says Pery. “To best take advantage of re-usable knowledge, the law firm must first reorganize around practice areas, then organize that



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practice-centric content in a more meaningful way, so the attorneys can have ready access to the information they need.”

The way they’re accomplishing the content piece of this is described in Pery’s article, “Matter-Centric Management: Letting Lawyers Work the Way They Want to Work,” on page 4 of this White Paper. But essentially, they are reorganizing their firms around a “matter- and practice-centric” way of working, says Pery. “The idea is to provide a single point of access to all information related to any given matter.” Here’s how it works:

When a “matter”—say, a merger/acquisition transaction—gets presented to the firm, they first have to check for possible conflicts. While this conflict check is underway, the metadata about the client is being populated into a matter folder. Then, all

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associated information having to do with that client is profiled into the matter folder, along with the necessary billing information. Finally, any case law and precedent information that will be useful is also linked with the matter folder.

When you think about it this way, the role of a powerful content management system becomes obvious. But the “matter-centric” vision presented here is not a trivial task. To accomplish it, the work environment for the attorneys and partners has to provide flawless access to both structured and unstructured content, must be both internally and externally connected to the necessary repositories of information AND must be “permeable” enough so that outside firms—as in the case of a complex M&A

transaction—can also share the appropriate information without compromising secure information.

This last piece is the newest wave in legal technology: the emergence of secure, collaborative, virtual “deal rooms,” where co-counsel and even outside competing counsel can share information and conduct transactions in a highly secure environment. These collaborative workspaces have permission-based security and support threaded discussions, real-time meetings and instant messaging.

This is one area in which the legal industry and other industries are very similar. In many environments, such as automobile or other product design, there is a need for secure collaborative workspaces. The way in which the technology is deployed is very similar; it’s only the end-product that’s different.

But product designers collaborate for very different reasons—to innovate, to share domain expertise (the marketing guy talks to the fabricating guy who talks to the wind-tunnel guy), to create a multidimensional product. Lawyers, on the other hand, collaborate only over their common unit of currency:

Time.

Time is the only thing that matters to today’s competitive law firm. “It’s a highly people-intensive business,” says Pery “and it’s difficult to scale up. In manufacturing, for example, you can improve your economies of scale by improving production and improving processes. But in a law firm, the only process you can leverage is how you use your junior staff’s time in order to increase billable hours. If you can use those junior attorneys more effectively, and spread that resource over multiple engagements, then you can increase the amount of time the senior attorneys can spend on high-value work, instead of being consumed by administrative tasks.”

The re-use of precedents and best practices (and even document templates left over from similar transactions) is thus not merely about improving the *quality* of the work in order to gain competitive advantage over the neighboring law firm. It is, instead, truly a time-related saving factor. That cannot be underestimated.

## Why the Law is the Same

So if the case for technology support in the legal industry is so compelling, all law firms are actively deploying such technology tools left and right as we speak, right? Just as all businesses are recreating themselves into lean-and-mean knowledge organizations that leverage technology to improve themselves overnight...right?

Uh...not quite.

The June 2004 issue of *Law Technology News* led with a lurid headline: “Shocking ABA Statistics!” The shocking news? The ABA did a survey of law firms of all sizes and

found that 73%—nearly 3/4ths—answered “no” to the question: “Is litigation support software available at your firm?” And when asked whether they personally used software, more than 88% said “nope.”

The various attorneys and consultants interviewed, for the most part, chalked it up to “fear” and the unproven return on investment that such software should provide. One claimed that attorneys “don’t understand that they can have this information in seconds, not days, at their fingertips in a laptop computer.” But another lawyer was less mystified by the findings. He said in the article that “savvy lawyers are better off bypassing ‘the fat price and product support contracts’ of legal-specific tools. “Maybe what [the ABA is] measuring is not how clueless, but how sophisticated those polled actually were,” he said, sounding very much like an attorney.

## “Lawyers collaborate only over their common unit of currency: Time.”

Pery thinks there’s another dampening factor on technology acceptance in the law firm: change. “A lot of barriers have been built up over the years,” Pery says. “They come from a culture where knowledge is power, and partners are competitive. They now have to recognize that there is inherent value in sharing.” And not just for the firm, in terms of billable hours, etc., but also for the individual partners. “If the firm is successful overall, the partner’s participation in that success increases.”

There are two more very defining factors that are changing the business of law, Pery says. “First, there is a recognition that the firm has to be much more competitive as a *business*.” Secondly, according to Pery, the recognition that attorneys are highly educated, very valuable members of the practice with unique skill sets has led firms to create incentive programs that reflect that value, and attorneys are responding in the positive. “They are reluctant to share information, but if you incent them...” suggests Pery. “For example, the ability to have the attorneys annotate a document with their own commentary and insights

raises their profile...not only within the firm, but in the firm’s process of marketing itself to the outside world. Through extranet-style expertise publishing to their clients, the firm benefits from these high-profile experts in yet another way. And the partners, who demonstrate all this domain expertise, in turn get the opportunity to work on new engagements. So the knowledge-sharing culture is more than just an efficiency and productivity model...it actually has the potential to create value in its own right.

This all sounds intuitively correct and logical. The question is whether the big-shot firms—with their stalwart and resolute old partner populations—are actually doing any of this stuff?

“They are beginning to, sure,” insists Pery. “Consider the fact that many of the large global law firms are hiring Chief Marketing Officers for just this purpose. Law firms are no different than the rest of the global economy. Many are going through mergers and joint ventures that require them to be a lot more competitive and aware of the fact that the practice of law is a business.” Also remember, Pery adds, that as law firms grow into global businesses, they are also becoming practice specialists that win marketshare by being the very best at what they do. “This, by definition,” Pery says, “requires firms and their various joint venture partners to share information. So the legal world is understanding what it is to become a real business ... in addition to being a noble profession, which it certainly is.”

It’s fashionably fun to think of the law business as something less than noble—262,000 joke sites!—but it’s hard to escape the conclusion that the law is changing to adapt to outside forces by maturing internally and culturally into something that is a lot harder to make fun of. ■

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