

KNOWLEDGE MANAGEMENT: WHAT THE HECK IS “IT”? AND WHY DO LAWYERS NEED “IT”?

by

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“Knowledge management” . . . the way normal people (i.e. technopeasants) would define this phrase would be something like: “Um . . . it’s like . . . about *managing* knowledge, right?” For lawyers, mention the concept and invariably they will say something like “it is how you organize what you, and anybody else associated with your case, know about the matter—in a way that allows you to process the raw information into a coherent understanding of the facts and issues in your case” (OK, so most lawyers actually might offer the technopeasant’s definition . . . just work with us on this one, would ‘ya?). Sounds more or less simple, doesn’t it?

The problem is that the phrase “knowledge management” - now the darling trendy techno.tag du jour, has been used commercially, and even journalistically, to describe everything from the process of cataloguing saved documents to traditional case management to storing documents in repositories on the Internet. Knowledge management, or KM as the quasi-cognoscenti would say, has become a sort of the “translucent blueberry-colored Mac” of the software industry . . . everybody thinks it’s cool, many legal-market-focused companies release products that claim to be in the KM “genre”, very few people have ever actually used it, but more and more people are beginning to think they need it . . . without even really being able to wrap themselves around the concept of what knowledge management is.

Scary, huh? Well if you’re not scared yet, you should be because we certainly are . . . or at the very least really, really confused. My goal here is to carve out some definitional territory—to try and figure out what this concept of knowledge management is and explore how useful it could be to practicing lawyers. I will take a crack at trying to define the concept—what the heck is this thing that just about every other exhibitor on the trade show floor of a legal technology conference is calling knowledge management. I’ll then explore how this new “thing” fits into the average lawyer’s practice as a collection of productivity tools.

To help sort all of this out, I’ve created an imaginary techno.friend called “Sparky” (don’t worry, I am taking my meds - it’s just a helpful literary device):

Sparky: Okay, I’ll start by defining what I think is *not* knowledge management software.

Ross: One second. You said “knowledge management software.” Do you think that the KM concept is strictly limited to specific pieces of software?

Sparky: I see your point and I think that as we work through this, we’ll probably see that

KM is really a mix of software tools and processes that help lawyers manage case information. So you're right Ross, KM is more than just software. But I've got to start somewhere with a tangible thing our readers can grab onto—some familiar “techno.ground” as you'd probably say.

So back to what I was saying . . . here are the things that I think are *not* KM software:

- ◆ The program that you use to enter custom information about your clients, such as date of birth, social security number, next court appearance or notes about their case - I think we all know that as “*case management*” software. Case management software is used to track the details that allow you to properly manage the progress of your case, and control the content of the output (i.e. automating assembly of documents like client correspondence and pleadings from the client information stored in the case management program).
- ◆ The program that turns your depositions and trial transcripts, your exhibits and your other discovered documents into a searchable database for the purpose of pre-trial preparation and use at trial is “*litigation management*” software.

Ross: I see where you're going here. Here's another application that is another one of these “something-management” systems that is *not* what we see as KM: the program that names, catalogs and files your incoming and outgoing letters, pleadings and other papers, and then later lets you retrieve your work product in a “Westlaw/Lexis/Google-like” fashion is “*document management*” software.

Sparky: You catch on pretty quickly, don't you . . . to a certain extent, those types of programs do some “knowledge management.” Case management programs may allow you to attach supporting documents, pictures and other files to case notes, and to sort them according to various criteria, or even search them with queries. Document management software, including the “lite” imaging-oriented versions that ship with scanners (such as Scansoft's Paperport) often have similar features. Those programs help you to organize the actual information so that it can be easily retrieved. Your litigation support software may go the next step and allow you to create timelines or outlines of your case, with supporting notes and documents attached.

Ross: But wait Sparky. . . I'm confused again . . . what you just said sounds to me like various forms of “knowledge” that is stored, tracked and retrieved electronically by lawyers and their staff every day. Maybe we're onto something here. What I think is that all those something- management systems”, when all taken together and viewed from a “big picture” perspective . . . I think that together they *are* KM. Where they become knowledge *management* is the point at which all those systems: case managers, litigation managers, document managers, together begin to help you marshal all of the information that you have culled from your clients,

witnesses, depositions, investigation, research, and even from brainstorming with your trial team or your practice group colleagues . . . “to boldly go where no data has gone” to rather badly paraphrase the immortal Star Trek introduction. In other words, they are all the infobits you have before you gather your thoughts together to form an overall picture of your case.

I think we’re onto something. Where this becomes particularly effective is when “it” (“it” being defined perhaps as an overriding piece of powerful, super-savvy search software, . . .

Sparky: Or maybe just a new work procedure . . .

Ross: Yes, I agree . . . to continue . . . that allows you to actually record your observations, document-based materials (paper and electronic), concerns, questions, ideas, strategies, institutionalized legal knowledge, “street smarts”, legal and factual issues and any other information which helps you to evaluate the strengths and weaknesses of your case.

Sparky I’m with you, believe it or not . . . So let me try and look at this in another way. “Knowledge management” is the ability to gather and reach information of all types stored in your system, regardless of its electronic or paper form (i.e. paper documents scanned and made part of the file a la my Paper LESS Office(TM) approach, pictures that are produced in discovery, business or medical records scanned as images, video clips such as “Day in the Life” segments, sound files, unformatted text files like e-mails, research materials from West or Lexis or the Web, your own handwritten notes, electronic documents your firm generated from previous similar cases, etc. and to then be able to “mine” the data, so to speak. As I think about it this way, it is actually the legal technology industry’s not-so-timely interpretation of the long-established and widely-used corporate world approach to data-warehousing and data-mining. So this is hardly a new concept to the business world . . .

Ross: We lawyers may lag a little behind but when we catch up, we tend to do it with a vengeance! Let’s take it a step further . . . I’m feeling really theoretical right now. Let’s say that all that case-related information that lawyers have to process can be viewed in “layers.” In other words, KM is the top layer and the other “M’s” (litigation, case and document management) all are sub-layers under the overall KM umbrella.

Sparky: Exactly what I was thinking! So all we’re really talking about is the idea of warehousing all our institutionalized case information - in whatever form it might exist, and then applying both an office workflow process and some super smart search software that can help us mine that data and find what we need. Let me take it a step further . . .

Ross: Why am I not surprised that you weren’t quite done yet . . . ?

Sparky: For a long time I’ve thought that the technology tools lawyers have been using to

streamline and support their practices just plain worked the wrong way.

Ross: You're not going to start with that "Windows: the ultimate Virus" thing again, are you? Just get yourself a Linux box and get over it already!

Sparky: No, that's *not* what I meant. What I mean is that the PC tools lawyers have had to use haven't necessarily worked the way lawyers think. They've been "application-centric;" or in other words, we have to spend time figuring out what program to click on when we want to look at the electronic transcript of an expert witnesses deposition. We have to waste valuable mental energy thinking about how to work the PC to get what we want, instead of just focusing on doing our work.

Ross: Go on, you seem to be on a roll . . .

Sparky: Some programs or ways more modern programs can be used have become "task-centric".

Ross: I'm starting to think ec-centric fits the way you're thinking about this . . .

Sparky: Let me explain what I mean. I think that what lawyers have always wanted from their computer systems has been the ability to just do their work . . . better, faster, cheaper with the computer's help . . . but fundamentally to get their client work out the door. Present company excluded of course, but I think what lawyers want is to think about the work at hand—for example, someone is prepping to depose an expert. They want to be able to quickly review prior transcripts of that expert, of other experts, of the parties. They want to be able to cross-reference that prior testimony with corroborative or impeaching discovered documents. They want to jump onto the Web and look up some medical or some engineering terms. They need to take a look at the last several pieces of correspondence received from opposing counsel. They may need to refer back and forth to a case outline or case flowchart/timeline that they've been adding to in a program like CaseMap. They need to double-check some scanned anatomical charts stored as graphic files or engineering blueprints also on their systems. They need to re-read their own expert's last e-mail about the opposing expert's credentials. Pretty typical stuff.

Ross: I see where you're going with this Sparky. Ultimately, the lawyer doing this couldn't give two hoots . . .

Sparky: Whew, that's a relief . . . you said "two hoots" instead of what I thought you were going to say!

Ross: As I was saying . . . couldn't give two hoots about what software applications are needed to access this potpourri of different kinds of information. With word processing documents, scanned images of documents, scanned photos, web-sourced materials, e-mail, case "flow" outlines, electronic transcripts, and abstracts of discovered documents to contend with, the lawyer needs to be able to

master a whole bunch of different programs in order to view the info they need to do their work...or, better yet, needs a system that keeps them from *having* to master a dozen different programs by consolidating all that information in one place.

What they want to do is have their computer system figure out what program needs to be launched to look at a certain piece of information or access a certain kind of document instead of having to figure it out themselves. They want the focus of their computer-using experience to shift from having to think about what program they need to do this or that to thinking about the information they need to use to do their work and let the computer figure out the best and quickest way to put it in front of them—with as few mouse clicks, as few menus cascaded across the screen as possible. That's what I consider task-centricity.

Sparky So Professor Kodner, I presume that the *next* step past task-centricity would be . . . ta da . . . knowledge-centricity or maybe information-centricity. Even with task-centricity, the lawyer in our example still has to navigate through about six different software applications - and has to have at least a working understanding of each of them. They would need a word processor, an image management product, a litigation manager like Summation or Concordance, an information outliner/brainstormer like CaseMap, perhaps a presentation graphics app like Powerpoint or Sanction to see an expert's graphical presentation, their office's e-mail program, a web browser, etc. etc. and the list goes on. If we move to the next level of what lawyers *really* want . . .

Ross: Even if they don't actually know it yet . . .

Sparky: Would be a single interface . . .

Ross: A Web browser perhaps?

Sparky: Perhaps . . . a single interface that would let them use a common set of commands or use a consistent interface, that would then let them access, view, use, manipulate, organize, print all the kinds of information we talked about that lawyer needing when she preps for her deposition.

Ross: Yes, that's precisely what I was thinking—sort of the ultimate techno.sleuthing tool. A data mining tool that understands many different file types, all sorts of data formats and can sift through, dig through, cull through piles of electronic information and automatically put it in front of the busy lawyer who needs to see it. That would be true whether that information is in some program on the lawyer's own PC network or outside their firm on a website or in a private Extranet or commercial Web-based document repository. And perhaps in a larger firm, it could be found across the firm's own WAN on a branch office's network server—consisting of the institutionalized knowledge of the firm's professionals.

Sparky I think we've got the concept fleshed out. Let's try and distill it into a working

definition that lawyers can really use . . . and explain to the less technically-inclined in their firms in something approximating plain English.

Ross: Okay, see if this one trips your definitional trigger: Knowledge management is a “big picture” approach to organizing, accessing, searching and using electronically stored information, using a single consistent software interface, without specific need to manage or understand, or even directly use the underlying software applications that are the repositories for that data.

Sparky: Works for me. I think our next step is to look at how some of the products lawyers may already have in their offices are fulfilling the promise of the KM concept. I’ll go first. I think that one of the most innovative and genuinely useful KM-focused programs to ever hit the lawyer’s desktop is CaseMap from CaseSoft. CaseMap lets you enter all of the facts, issues, questions, issues and elements of a case into a single database, with appropriate documents or exhibits attached, as you gather the it. Then all of that information can be filtered, sorted, evaluated and reported on instantly, whenever you need it. It is an amazing tool to put an end to the endless hours spent “re-reviewing” stale files, or attempting to write and rewrite case outlines and analyses each time new information becomes available.

Ross: I agree—CaseMap is really the logical inheritor of a long line of brainstorming and outlining tools . . . from the old Thinktank and Grandview DOS outlines to the much lamented Ecco Pro....CaseMap is the next step. I really think it’s a thinking and planning tool that all lawyers can use, whether litigators or transactional practitioners. How much is it Sparky and where can our readers get more information?

Sparky CaseMap is a product of CaseSoft which is a division of a company called Bowne-DecisionQuest. Their website is at www.casesoft.com. Periodically the company posts very interesting “case studies” and product announcements on the Technolawyers listserv as well (www.technolawyers.com). It runs about \$500.00 and is worth every dime in time saved and information gleaned. And what about WestKM?

Ross: WestKM is the culmination of a multi-year initiative by Thomson-West and perhaps one of the most forward-thinking legal technology products of all time. Leveraging the Westlaw interface, this system provides a single unified search mechanism that can dig through multiple data types - documents, case management data, billing system data, Outlook e-mails, web sites, Westlaw content. This product, initially targeted to larger firms comes closest to what many people envision when they hear “knowledge management.” Your local Thomson-West representative can fill in the details.

Sparky What strikes me is that KM is one of those areas where the concept can be so complicated, that the most successful products will be the ones that make it look really easy to use. I really think that this entire area will evolve into the “one interface, all searches” standard.

Ross: I agree. The more I think about this, the more it occurs to me that a pretty significant KM product has been right under my nose for years . . . my document management system. While I use Worldox from World Software (www.worldox.com - \$350 per user plus \$60 per user in annual software maintenance), competitive products like iManage (www.imanage.com and www.interwoven.com) and PC DOCS Open (www.pcdocs.com) would accomplish the same thing.

More and more lawyers and law office staffers are using their document managers to access a plethora of various types of files. For example, firms who have applied my Paper LESS Office concept are building completely contiguous electronic client files. In doing so, they are enabling the knowledge management abilities of their document management system. What this means is that a program like Worldox, working effectively “within” WordPerfect or Word can launch virtually any kind of document—spreadsheets, scanned images of documents, graphical files like photos or slideshows and more. This means the lawyer or their staffer has, at their fingertips, virtually instant access to a ton of information—with nothing more involved than a double-click of their mouse—maybe this is just task-centricity; maybe it actually crosses over into knowledge management.

And for that matter, browser-based case/practice management systems such as the Time Matters World Edition, Amicus X from Gavel & Gown Software, CaseManagerPro, RealLegal Case Manager, LegalFiles and others may fit the KM bill also. Using a single unified interface - tapping the universality of web browsers, a comprehensive range of firm administrative and client matter information including documents, e-mails, case notes, rolodex info, etc. is searchable and accessible. Clearly, fulfilling a central role in the KM concept.

So the bottom line, folks, is that while knowledge management is a somewhat amorphous concept, it can be defined—and we hope our explanation clarifies it a bit. What *is* abundantly clear is that we are witnessing a significant technological shift in the way legal professionals work on their client files. With the transition from application-centricity to task-centricity we are finally beginning to see the bridge over the “expectation gap” between what lawyers expect PCs to do and what they have delivered so far (um...significantly *less* than we had hoped when PCs first hit our desks). Of course, we can only hope that the transition to knowledge management is the last step before “neural management” - where we think and the PC understands and instantly bends to our will! While *that* is probably still a few years away, the growth of true knowledge management will continue completely changing the way legal professionals leverage PC technology . Now, if only the vendors of all these really cool products could just agree on what they mean when they say Knowledge Management.....

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