

Treadmill vs. Windmill

Making Knowledge Management a Self-Sustaining Process

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Knowledge for Sale! The daily practice of law is highly dependent on the use (and reuse) of “knowledge” in one form or another. Most of what a lawyer has to offer to clients is based on knowledge, whether it consists of a particular skill, an acquired experience, or other methods to acquire and apply information (what is called know-how, know-what, know-who, and even know-why). So it makes sense that the more a lawyer can use personal knowledge and the collective intellectual capital of others in the firm, the more productive and valuable that lawyer becomes.

In practical terms, knowledge management (KM) is a process to leverage what the organization collectively knows. Some say that a KM process simply delivers the *right* knowledge to the *right* person at the *right* time. It may take the form of using in-house research or document precedents to eliminate redundant effort and lower costs. It could mean identifying the best person to do a particular project, or drawing on a collection of skills, experience and best practices to achieve a better result or faster response. Or it could be as simple as sharing client or case intelligence within a team to develop new business or improve service and relationships.

The better the firm manages these knowledge assets, the greater the financial benefit for all involved. Put another way, the failure to reuse what you know means that you will be always reinventing the wheel at the expense of your client, your profitability and your competitiveness. Law firms sorely need a better way to leverage their collective knowledge as a business asset.

If a rich internal repository of information, skills and experience were easily available in your firm, is there any doubt that lawyers would use it as readily as picking up a case digest? Lawyers are trained to work with multiple information sources, references and precedents, so the use of knowledge resources should fit their natural work process. However, the challenge is to create a natural KM process that suits the culture and enhances the operations of the lawyer and law firm.

To date, most attempts to create an effective, sustainable KM process in law firms have had limited success. Law firm KM managers have come to equate their role to that of the mythical character Sisyphus, who was condemned to ceaselessly roll a rock to the top of a mountain, whence it would fall back of its own weight.

Yet a new generation of knowledge processes is starting to connect with lawyers on their own terms to produce tangible results. These processes attach to and channel the existing work process to gather and distribute knowledge. In this article, we will look at the factors necessary for creating a successful and sustainable KM process.

The Myth that Lawyers Will Not Share

When law firm KM initiatives fall short of expectations, many are quick to attribute the failure to the lawyer's inherent unwillingness to share. It is true that many lawyers are accustomed to a lone wolf style of practice.

However, the vast majority are ready and willing to share or exchange knowledge—given the right scope, environment, control and circumstances. Sociologists and anthropologists maintain that it is a force of human nature to help one another in need (they call it the *altruistic impulse*).

If you walked into a lawyer's office in your firm with an urgent question requiring specialized information or expertise, wouldn't your colleague try to help you—or at least point you in the right direction, time and circumstances permitting? Is the question in context of what the lawyer is doing, and will the answer stay in context? Are you familiar with the area and experienced enough to under-

Special thanks to Mario D'Amico, chief technology strategist at PensEra, for his contribution of the KM process analysis and knowledge funneling concepts in this article. For more resources on knowledge management, knowledge funneling, co-benefiting, knowledge feeds, expertise location and designing technology for lawyers, visit the Resource Center at <http://www.pensera.com>.

stand a quick answer? Is the lawyer much too busy at that moment, or does it look like you are just trying to avoid doing hard work? Is this information sensitive or too complex to convey without substantial time and effort? What incentive or advantage does the lawyer obtain or lose by sharing? All these questions and more go through every lawyer's head with every request to share or exchange information.

Lawyers are no different from any other busy knowledge professionals. They juggle weighty responsibilities and are subject to tremendous demands on their time. If sharing involves an extensive commitment outside the scope and control of their immediate obligations, it becomes inherently difficult to participate.

Some characteristics of lawyers may even increase the attraction of some KM systems. Being known as an expert creates recognition and prestige and can open more business possibilities for the lawyer. Therefore, KM expertise systems that recognize individuals as "go-to" people may appeal to a lawyer's business and personal motivations.

So blaming the "lawyer culture" for the failure of a KM process is much too simplistic. It is but one factor to be considered and massaged as part of any KM initiative. It should not be a deal-breaker.

As with most new technology or business projects, we have to recognize that if the user doesn't embrace KM, the problem is likely not with the user but with the failure of the process to engage, accommodate or benefit the individual. KM requires a shift in firm culture, but much can be done to create the proper circumstances for self-sustained sharing.

Early KM Efforts: Disruptive, Dissipative and Controlling

With the benefit of hindsight, we can learn from some of the setbacks of early KM initiatives (in both law firms and other industries). A KM process usually originates as a top-down management initiative. Management identifies the knowledge it wants, and users are asked (read: required) to supply it on demand. The supplementary process typically requires the users to interrupt their work (or worse, stay late), learn a separate system, and offer up their most precious knowledge, out of context, for the nonspecific benefit of the greater organization.

In addition, users are often required to categorize, polish and profile the knowledge before the KM system will accept it. Then organizational resources and infrastructure are required to support and sustain the initiative. This often includes a KM department and KM staff: sifters, researchers, profilers, updaters, publishers and more.

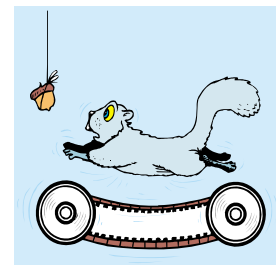
It is easy to see why these projects encounter such resistance. In the horizontal organizational structure of a law firm, piling tasks on busy attorneys will always be a nonstarter. Requiring more training for the use of a new system for no direct benefit is also counterintuitive.

If the individual lawyer contributes as required, not as inspired, contribution will always be a hurdle. In law firms, this process is typified by the "precedents campaign" launched once or twice a year to convince and persuade lawyers to identify and part with precedents or templates for best practices. The campaign does produce valuable results, but it requires a lot of energy and pressure to sustain it. As soon as the pressure from above ends, the program quickly dissipates and loses effectiveness.

Finally, these early KM processes often require knowledge workers to contribute regardless of personal or professional ramifications. When knowledge is contributed on this controlling basis, the individual source has no further ownership over the context or extent of distribution. Needless to say, this can greatly inhibit contribution.

Top-Down Knowledge Process

- **Active**
(separate tasks, resources)
- **Dissipative**
(continuous push, or ...)
- **Controlling**
(dictates duties, rewards)



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Figure 1: Taken from presentation by Mario D'Amico of PensEra to KM World 2000

Some firms have tried to overcome reluctance by offering financial incentives for contribution—or penalties for the lack thereof. Such KM processes often work like a treadmill, whose operation is strictly dependent on continuous external effort.

The active, dissipative, and controlling nature of the early KM processes need not be viewed as an insurmountable problem. Instead, it provides good lessons for development of a more passive knowledge process that retains its momentum without continual need for external pressure.

Treadmill vs. Windmill

Knowledge management will not thrive as a separate process. Most KM experts now predict that KM will soon lose its separate identity, as it becomes embedded or "baked" within existing work systems. Mario D'Amico, chief technology strategist at PensEra Knowledge Technologies, describes this "knowledge funneling" approach as resembling a windmill rather than a treadmill. "Instead of constantly prodding the user to contribute tremendous effort (the treadmill), we must attach or embed the means for contribution and usage within existing lawyer work processes, so knowledge is funneled naturally from work," he says. "By blending KM contribution and consumption with the daily attorney workflow, the process can gain more participation and become self-sustaining, propelled by natural processes—like a windmill."

Knowledge Funnels

– Bottom-up directly to the source

- **Passive**
(Technology does most of the work)
- **Self-Sustaining**
(Knowledge captured as part of daily work process)
- **Empowering**
(The knowledge worker benefits)



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Figure 2: Taken from presentation by Mario D'Amico of PensEra to KM World 2000

Scope, Target, Measure

The first challenge in any knowledge management process is to define and select the knowledge that you want to manage. Implementing a knowledge process has ramifications that will affect most aspects of your business and practice. If the organization does not first take the time to determine what is valuable, tangible and exploitable by its knowledge workers, everything that follows may be diminished.

Targeting the knowledge goals and expected results at the outset will help determine how you measure your return on investment, an essential starting point. To justify the costs, a knowledge management system must improve productivity or financial opportunities. It must make lawyers' jobs easier, enhance client relations, improve the work or increase work satisfaction.

Potential KM activities cover a broad spectrum, and these days everybody is laying claim to KM. Building expert databases, establishing best practice libraries, building practice group areas, mini-portals, training programs, and the like can be valuable, provided you know your audience, their needs, the value of the information and, of course, your targets.

What Do YOU Consider Knowledge?

Traditionally, experts dispute the distinction between mere information and knowledge. But one man's information can be another man's knowledge in the right context.

KM experts generally categorize knowledge in two principal categories, *explicit* (know-what) and *tacit* (know-how). Many references are available on the distinctions between the two and whether tacit knowledge can be captured. Suffice to say in a law firm practice, explicit knowledge is usually the work product, data, notes or information that have been structured, patterned and packaged so as to be useful to others in the firm. Law firms usually address tacit knowledge with some form of expertise locator processes that point to the people who have the knowledge in the organization.

Most law firm KM projects start with finding and classifying documents, since preexisting work product is the most tangible source of potential knowledge. They also find it is easier to bypass lawyers and deal directly with their work product. By culling through opinions, pleadings, agreements, e-mail messages or other tangible work product, a law firm can build elaborate KM repositories. CRM and Time & Billing are other core process systems where useful knowledge can be gathered or contributed as part of the daily work flow.

There is no denying the benefit of precedent and document repositories, but a firm must weigh the effort against the objectives. A document culling process often requires a dedicated task force to find that percentage point or two of reusable knowledge contained in the vast volumes of law firm work product. Publishing a precedent requires careful verification and constant attention to context and potential circumstances requiring revision. Then there is a serious question of whether a document alone fully conveys the sophisticated levels of knowledge, such as tax or negotiating considerations, contained within.

While documents represent one source of knowledge, law firms should not overlook the rich source of knowledge that is constantly flowing through the firm from attorney activity. Each day each attorney in a firm acquires new bits of knowledge from interaction with clients, handling cases, researching issues, exchanging e-mail and participating in the legal process. This daily flow of case and client information, business intelligence, and practice insights represents a dynamic, tangible and leveragable source of knowledge that can be tapped.

So what are the right circumstances that facilitate vigorous lawyer contribution and participation in the KM process? Let's look at the five most important factors: Timeliness (When), Proximity (Where), Simplicity (How), Control (How Much) and Payback (Why).

1. *Timeliness: Contribution and Consumption When You Think of It*

Knowledge contribution cannot be isolated from the daily workflow or separated from people. It should not be limited to a one-time collaboration or an annual collection of greatest hits. To be relevant and effortless, contribution must be immediate, while you are thinking of it.

What does this mean in a legal context? We know that the one moment when a lawyer is thinking about the client, the case, the practice, and the law is when doing or recording the work. Therefore, any technology that allows the contribution or capture of knowledge to take place while working and when it is freshest in the mind of the contributor is likely to produce the broadest, most accurate range of contribution.

Similarly, access to knowledge must be available to the lawyer right when it's needed. In a recent Harvard Business Review article, noted KM specialist Thomas Davenport refers to this as "Just in time delivery comes to Knowledge Management."

2. *Proximity: Contribution at the Intersection of Thought*

The best place to gather knowledge is when it arises in context—at the "intersection of thought." The physical location is not as important as positioning KM in close proximity to the lawyer's work and thought processes. Therefore, the most effective strategy is to provide the lawyer with an easy means to contribute and consume knowledge from within the core processes and normal workflow.

For example, while working on a document, can the lawyer tag it as a precedent? While recording activity, can the lawyer jot down any new insights about the client, the case or the practice? While communicating by e-mail, can the lawyer retain or forward a copy to the knowledge base?

Physical proximity is also a consideration. Knowledge processes cannot be confined to your office. Mobile lawyers should have the means to capture or tap knowledge wherever they go. Fortunately the advancements in mobile and wireless computing will make this increasingly easier.

3. *Simplicity: Less Work Means More Participation*

To build broad participation, the KM process must be clear, concise, simple and quick to use. Simplicity reduces the need for training. It also facilitates a quick-in, quick-out usability that does not disrupt the lawyer's work.

Unfortunately, most KM projects result in elaborate, time-consuming profiles, taxonomies and questionnaires that discourage participation. Yet the most effective KM system is one that attracts daily contribution and use. Lawyers should be encouraged to jot down knowledge notes whenever they think about it. They will be more likely to do this if they retain control (as discussed in the next section). Categorizing and profiling knowledge is important to the firm, but that part of the process should not be a requirement for individual contribution. KM organization can take place behind the scenes as needed.

Simplicity also applies to the ease of consumption. Entering valuable knowledge in a database may be pointless if attorneys remain unaware of it. We cannot count on busy attorneys' being curious enough to search out information from these new, unexpected sources. Therefore, "push technology" concepts, such as knowledge subscriptions, daily knowledge feeds, and summaries and special alerts can help draw attention to new knowledge and improve the knowledge distribution process. Subscriptions

allow the firm to put relevant new knowledge in front of interested parties without disrupting their work processes.

4. Control: Respecting Privacy Primes the "Knowledge Conversation"

Granting a lawyer the absolute right to keep personal knowledge private may sound like the antithesis of knowledge management, but it is a fundamental stepping-stone to knowledge sharing. This is not a question of ownership but of participation.

One of the principal impediments to participation is the time and effort necessary to compose, edit and refine a contribution for internal publication so that it can be clear to all potential readers. If you post a note about your specialty (say, your practice) for your own use, it can be short and cryptic. If you know that only trusted senior members of your practice group will see it, you may be a little more thorough, but you still have confidence that others of equal experience will understand it. However, if the note is broadcast to a firmwide membership, it now must be explicitly and meticulously clear. This means investing much more time and effort for no immediate benefit. Moreover, since the note represents your "best practices," it is tempting to hold back since others may hold it up for scrutiny or misunderstand its complexity.

It is easy to see how the casual exchange of knowledge can often be stifled by unrestricted enterprise publication. Will a lawyer frequently participate in this publication process without being able to control the range of circulation? Not likely.

For lawyers to fully participate, the organization must respect the lines between personal, group and corporate knowledge. It must empower the individual to contribute so as to benefit from the process without the inhibition and chilling effect of blanket dissemination. Knowledge sharing is not going to take hold in an organization overnight no matter what approach you take, but it will never happen if contributors have no privacy control. By building a knowledge conversation from the ground up, the organization can build a longer-lasting and more sustaining knowledge-sharing culture.

5. WIIFM? Payback to the Contributor

Every system that hopes to attract voluntary use has to answer the fundamental user question: "What's in it for me?" A self-serving system is also a self-sustaining KM process. Lawyers will more likely contribute to a KM system if they derive a direct benefit from the results. This goes beyond performance incentives. If a lawyer is to be motivated to enter knowledge notes, the primary beneficiary should be that lawyer. The process should reward the lawyer through better efficiency, empowerment, better work and more free time. By facilitating both personal and enterprise zones, the law

firm can provide a lawyer with a means to record, organize and access knowledge that first and foremost provides a personal benefit, while secondarily building knowledge assets for the firm. This is the concept of "Co-benefiting."

For example, when a lawyer or assistant jots down knowledge about the case, a client or an area of practice, the knowledge system should help classify and organize the information for use on that case (or with that client or area). Although it starts as a personal information organizer for the enterprise, the knowledge is now anchored to the organization and sharable by choice. If the lawyer shares some or all of the information with the firm, then all can gain from collaboration. Similarly, if a team contributes multiple knowledge notes on a file, each member can stay abreast without extra effort.

This direct benefit can and should be supplemented with tangible rewards for knowledge sharing, or significant disincentives for the opposite, or both. Incentives should reward both contribution and use, since robust participation is the key to sustaining and improving the system.

How Do You Know It's Working? Participation

Like the sound of the proverbial tree falling in the vacant forest, you can't be sure you have knowledge management if nobody is there. Participation is the only true measure of success, and that means broad participation both in contribution and in consumption of knowledge. If only a few people contribute, you may have an expensive research and publication system, but you have not tapped the full potential of collective knowledge in your firm. If only a few people use the knowledge, you may break even or do even better from just a few incidents, but the potential of the system is still wasted.

If you ignore the KM process for a month or two, will it keep going on its own or come to a halt? Only by creating a process for multilevel contribution and multilayered use can a law firm achieve sustainable success in KM.

KM Perseverance Has Great Rewards

It is often said that knowledge management requires a cultural change by the organization. But the art of knowledge management is also evolving and adapting to the business context and needs of the professional. The myth that lawyers will not share will soon be refuted by a new generation of knowledge-gathering tools geared to suit the work and thought processes of the professional. A grassroots KM process that captures and delivers knowledge where and when work is being done will attract greater participation and produce greater rewards for all parties involved.

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