Effective Knowledge Management for Law Firms

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To my wife Kathy, my beautiful children,
and to the memory of Penelope Wines.

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Acknowledgments

Building wisdom about knowledge is a difficult task, and one that would have remained inaccessible to me without the human interactions and generosities of a diverse range of outstanding people—people who have helped me throughout my professional life and with the creation of this book.

My professional career has seen legal practice, commercial experience, and legal management, and there are people in each of those spheres whose words and actions have left their invaluable imprint.

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Introduction

Information and knowledge are the thermonuclear competitive weapons of our time. Knowledge is more important and more powerful than natural resources, big factories, or fat bank rolls.
—Thomas Stewart

The latter part of the twentieth century witnessed a profound shift in the nature of organizations, and an increasing recognition of the importance of knowledge as the only form of sustainable competitive advantage. The other traditional factors of production—land, labor, and capital—were capable of acquisition on either a temporary or a permanent basis, as required. Even technological innovations, once the domain of proprietary and expensive equipment, provided at best short-lived tactical advantage, as competitors quickly mobilized to match innovations using cheaply available industry-standard software and computers.

The knowledge and technology component of industrial, manufactured, and financial products grew dramatically. The value of products became increasingly dependent upon the intellectual effort embedded in the product rather than the value of the physical goods that were assembled and sold. Software, for example, has marginal physical cost—the disk on which it is carried and the box in which it is sold. The value of software is not in the physical components assembled, but in the huge intellectual costs of programmers, research and development, and design. Even in the humble dishwasher, the chips and computer controlling the machine are worth more than the steel from which it is made, as I unhappily discovered when the computer in my Bosch was zapped by lightning.

As the intellectual and knowledge component of goods and services gained importance, the acquisition, nurturing, development, and management of human intellect within organizations acquired a much higher priority. Better quality and efficiency of intellectual processes promised

better decisions, shorter cycle times, and decreased costs through greater productivity.

To help organizations with this transformation from industrial to knowledge-based enterprises, the 1980s and 1990s saw the rise of a range of management concepts, including:

- Peter Senge's "learning organization"[1]
- The discussion and measurement of "intellectual capital" to explain the difference between a company's market capitalization and book value[2]
- The emergence of a new discipline of "knowledge management"

In 1997, Thomas Davenport and Laurence Prusak, in perhaps the most famous (and useful) knowledge management book, distilled their core message: "The only sustainable advantage a firm has comes from what it collectively knows, how efficiently it uses what it knows, and how readily it acquires and uses new knowledge."[3]

Law firms have always been pure knowledge businesses, always conscious of the fact that their sustainable advantage is the expertise and knowledge of their lawyers, and their firms, rather than any physical factors of production. Unlike the impact of the knowledge economy on transforming industrial businesses, the "knowledge economy" is not reshaping the extent of law firms' dependence on intellectual endeavor: it has always been extremely high. The value of lawyers' products has always been dominated by the intellectual rather than the physical component of the "goods" sold.

Indeed, lawyers have always produced only two tangible products: documents and airtime (when they speak). Lawyers are called upon to produce documents that record advice, documents that allocate risk between parties in agreements, documents that represent clients to regulatory agencies, and documents that commence or defend disputes and proceedings. Lawyers also speak, providing advice and representation orally in meetings, on telephones, in videoconferences, or before courts and tribunals.

The physical value of these two goods sold by lawyers has always been *de minimis* compared with the value of the underlying and embedded intellectual effort and expertise. The physical cost of documents was once the paper and postage—now it is the almost zero marginal cost of e-mail transmission of an electronic document. For airtime, face-to-face discussion has no physical cost, and for non–face-to-face communication there is only the ever-decreasing cost of signal carriage and transmission in telecommunications networks.

The balance sheet of law firms has always reflected a knowledge-intensive business. As the chairman of a major international law firm rightly said, "Our assets go home at night." Law firm balance sheets normally show but four major asset classes. The first is accounts receivable, the value of outstanding and unpaid bills. The second asset class is work in process, the value of time spent on client matters that has not yet been billed. The third is cash, and finally, the fourth is the diminishing value of books in the library.

Like most professional-services firms, law firms own very little. They rent their premises, rent their technology, and rent their people. If law firms were listed on a stock exchange, their value would be a very significant multiple of the book value of their physical assets. The same is true for other professional-services businesses, whose value is dominated by intellectual rather than physical assets. KPMG's consulting operation, floated in 2000, has revenues of U.S. $3.1 billion, net tangible assets of U.S. $200 million, and a market capitalization of some U.S. $2.1 billion. The multiplier is more akin to the multiplier for Microsoft than that of GE.

As essentially knowledge businesses, law firms have always been dealing with assembling and managing intellectual resources and charging clients for the use of those resources. Once upon a time, legal services were charged on the basis of the number of words written, which some claim as the cultural seed for lawyers' supposed predisposition to verbosity and complicated language. With increasing computerization of record keeping in the last half of the twentieth century, the six-minute unit and the hourly rate emerged as the dominant methods for measuring the cost of legal services and the revenue of law firms.

That is not to say that firms have not been flexible in exploring fixed-rate agreements, risk-based premiums, contingency fees, and even equity in lieu of fee arrangements during the dot-com boom of the last five years of the twentieth century. However, the dominant method around the world upon which law firm revenue is calculated today remains hourly rate billing.

Unlike law firms, organizations that do not charge for their services based on hourly rates can derive revenue increases, and cost reductions, from organizational learning, knowledge management, and technology. These transforming organizations can:

- *Increase revenues* from better innovation, enhanced customer targeting and increased service quality, and reducing product development cycles
- *Decrease costs* with knowledge-driven increases in employee productivity, and with the application of knowledge-enriched technology to replace human cost factors in everything from invoice processing to call centers

While these benefits are available to transforming organizations, not all projects launched by them in the name of technology, and knowledge management, have delivered favorable bottom-line results. Many databases have been built, intranets rolled out, Web sites created, and portals launched with the best of intentions in seeking these benefits. Karl Eric Sveiby, the father of the intellectual capital movement, has estimated that the confusion between knowledge and information has caused managers to sink billions of dollars in information technology ventures that have yielded marginal results.

For law firms, however, knowledge-worker productivity improvements prima facie reduce revenue, and therefore reduce financial performance. As Thomas Davenport has observed:

Lawyers generally bill by their time. So what happens if they can do a lot more productive work in an hour because of knowledge management? If competitive law firms adopt such KM approaches, they may all be forced to pass the savings on to their clients, and hence lower their own incomes. It's fine to talk about "value billing," but calculating the value of the 47th use of a client letter's content will never be easy, or invisible to the client. Like many IT innovations, knowledge management may be good for individual productivity but bad for industry economics.[4]

The same factors that have been driving knowledge management—specifically technology and globalization—have also had a profound impact on the size of law firms and the knowledge environment in which lawyers operate. Lawyers may actually have become less knowledge-confident since the term "knowledge management" entered the management dictionary.

In simpler times, not twenty years ago, law firms were significantly smaller, employing fewer than the two-hundred-people level accepted by many as a barrier to the quality and scope of informal organizational communication.[5] Firms were generally based in one principal location, not dispersed nationally and internationally, as are the larger firms today.

In simpler times, a lawyer was confident that he knew the sources of knowledge in his profession. He knew where to find the casebooks, which he first encountered at law school. He knew where to find the textbooks in the library. He knew where to find the one filing cabinet of the firm's previous important advices. He knew where to find the forms and precedents that had been created for use by the firm's lawyers.

Today, firms are much larger and growing larger by international merger. English firms have led the way in international merger activity to build very large, high-quality, multijurisdictional commercial law firms. As the table below indicates, the leading firms now have in excess of 2,000 lawyers, allowing increasingly global coverage.

Table I.1
Lawyer numbers in major firms (2002)

Firm	Number of Lawyers
Clifford Chance	3,600
Baker & McKenzie	3,000
Linklaters	2,505
Freshfields Bruckhaus Deringer	2,314
Skadden, Arps, Slate, Meagher & Flom	1,441

Source: Firm Web sites and publications, December 2002.

Personal computers came to lawyers' desks for the first time in the 1990s, and most firms will shortly celebrate their first decade of lawyers working with personal computers. During that decade, the legal information landscape exponentially increased, often with multiple sources carrying the same content. Lawyers can now become bewildered by the blizzard of information—is the right information on a CD-ROM, on a Web site, or in a book in the library? Librarians complain that new graduates suffer electronic blindness—if the young lawyer cannot find the resource on the Internet, it does not exist to him or her. An avalanche of special-interest Web sites and e-mail lists emerged, with some lawyers now receiving more than one hundred e-mails daily from professional e-mail lists to which they belong. Documents are created faster, larger, and more complex than ever before.

At the same time this information explosion was occurring, more efficient management focused increasing attention on billable hours, diminishing the opportunities for informal knowledge acquisition and dissemination. Much "slack" time has been cut out in the name of productivity and profitability.

Rather than being assisted by the coming of the "knowledge economy," the blizzard of choice, the explosion of content, and the increasing demands for speed in the provision of legal services have actually made lawyers less "knowledge-able." New professional dysfunctions have been identified—information anxiety and attention deficit.[6] The production and dissemination of information has become so cheap and easy that the flow has become greater than one's ability to process it.

Ask any lawyer of fifteen years' experience how "in control" of the knowledge and information of the profession he or she feels today, as opposed to fifteen years ago. Ask a five-year lawyer the same question, and you will be amazed that the response is the same. The quantity of legal and professional information, and the continuing changes in the publishing and delivery mechanisms (and interfaces) for that information, challenge even the best librarians—who do not face billable-hour targets. Lawyers now often rely on the research skills of newly qualified lawyers, hoping they are familiar with the latest tools.

In its 2001 annual report, the international firm Freshfields Bruckhaus Deringer said of its intellectual capital program:

> As firms are successful and grow, and colleagues are more spread out—sometimes even within the same office—there can be a tendency towards intellectual inertia and the loss to the firm, through compartmentalisation, of valuable information.
>
> Technology offers the chance to overcome some of these difficulties. But we are very much aware that if we fail to manage our technology well, it will become another part of the problem. Email, intranets, videoconferencing, and similar tools enable us to share know-how; they also make it possible for us to drown in data if we

do not use them wisely. That is why we are investing heavily not
only in top-quality IT systems and people but also in an extensive
and growing team of knowledge management professionals.[7]

The balance between knowledge management and information overload is a
key, and often overlooked, part of a law firm's knowledge strategy.

My aim in writing this book is to analyze, from a business perspective,
how law firms should approach knowledge strategy to enhance the perfor-
mance of their firm, and to help law firms avoid sinking money into knowl-
edge management ventures that will yield marginal results.

The key questions that arise are:

- What can we learn from the origins, the history, the lessons, and the
  thought leadership of knowledge management that can help managing
  partners, executive committees, and knowledge partners approach and
  execute value-creating knowledge management for their firms?
- What business and economic fundamentals should be the subject of
  knowledge management initiatives?
- How does one approach a cohesive knowledge strategy at law firms,
  addressing the productivity paradox of hourly-rate billing?
- How do firms address both their legal and nonlegal knowledge needs?
  What should a law firm invest in, and why?

These were the questions with which I sat, watching waves crash upon
the pristine beaches near my home. I reflected upon our knowledge manage-
ment experiences, on the economics of law firms, on the current and future
demands of clients, on law firm technology, on the brand-enhancing knowl-
edge management initiatives of the accounting and consulting firms.

One's first step in wisdom is to question everything—
and one's last is to come to terms with everything.
—Georg Christoph Lichtenberg

To acquire knowledge, one must study; but to acquire
wisdom, one must observe.
—Marilyn vos Savant

Often when we are busy, we do not find time for observation, reflective learn-
ing, and thinking—for building our own knowledge.

In "Cut Us Some Slack," Thomas Davenport reminds us that where
human beings and knowledge work are concerned, slack time matters.[8] One
of the dangers of a "productivity" and "commoditizing" approach to knowl-
edge management and technology initiatives is that driving the slack out of
human processes can actually diminish the quality of the knowledge work.

Davenport warns, "Unless you're careful, you could end up using technology to increase your employees' efficiency while hurting productivity."

What follows is the result of my slack time, the first time a successful and battle-hardened director of know-how at a major law firm had sufficient reflective time to build new mental models of successful and enduring knowledge management for law firms. That slack time also enabled me to consider the differences in legal practice and legal information over the last twenty years, during the period in which the knowledge economy has being gathering steam, to reflect on my time in practice as a transactional mergers and acquisitions lawyer, and as a director of know-how.

How This Book Is Structured

Part I: Understanding the Terrain

The four chapters in part I provide an overview of the terrain for knowledge management at law firms. The chapters explore the meaning of knowledge management, the history of knowledge management, the business drivers of law firms, and how lawyers, as knowledge workers, actually work.

Understanding the terrain is a prerequisite to planning and executing a successful knowledge strategy.

Part II: Plotting and Sailing a Course

Part II then outlines a methodology for the codevelopment and implementation of an effective knowledge strategy within the law firm, answering the key questions about what a knowledge strategy looks like and what process to follow in engaging the firm to produce one.

The methodology separately addresses the three dimensions of law firm knowledge strategy: personal, interpersonal, and impersonal or digital knowledge strategy. Recognizing that any knowledge management initiative will involve and depend for its success on changes to behaviors and processes, part II first addresses the key items of culture, and change management, before exploring any detail of specific initiatives. The chapters in part II thus outline a methodology for codevelopment and implementation of a knowledge strategy, provide briefing material to assist you in your journey, and offer a collection of ideas for projects and initiatives clustered according to the dimension of the strategy and their economic impacts.

Part III: Recommendations for Your Personal, Interpersonal, and Impersonal Knowledge Strategies

Part III provides specific recommendations and guidance in relation to the elements of your firm's knowledge strategy, addressing each of the three dimen-

sions of knowledge strategy. While the particular focus of a law firm's knowledge strategy depends upon its market position, maturity, and types of work, the three chapters in this part provide a range of ideas to consider in codeveloping the knowledge strategy with the partners and lawyers of the firm.

Appendixes: Resources to Build Your Tacit Knowledge

The appendixes contain a range of additional resources that I hope you will find helpful in building your understanding of knowledge management.

Selected Web Sites That I Use: A listing of the major Internet sites addressing knowledge management, legal technology, and professional services issues—the sites I use.

Software and Utilities to Know: A summary of the more common, and lesser-known, software platforms and authoring tools used in law firm knowledge management.

Glossary of Terms You Should Know: A glossary of terms found in professional services management, technology, and knowledge management that the leaders of knowledge management at law firms need to know.

Principles, Myths, and Mistakes: Lists from the Gurus: Distilled wisdom from the gurus in the form of top-ten lists or principles. Internet references are provided for each entry in these lists, which you should visit, print, read, and reflect on.

Core Message

The core message of this book is that every law firm already has a strategy for managing its knowledge (whether explicit or implicit), and that a review and refocusing of that strategy can improve bottom-line performance, help avoid nonyielding knowledge investments, and attract and retain clients and lawyers.

A key, and new, part of a law firm's knowledge strategy is how to address information overload, and information anxiety, rather than exacerbate the problem. The road to information hell is often paved with good knowledge intentions.

By using the methodology outlined in part II, firms can significantly increase the effectiveness of their knowledge strategy; improve the quality, cohesion, and expertise of their lawyers; decrease professional time spent on nonbillable matters; and institute a vocabulary and value-based framework to assess knowledge related investments and initiatives.

I

Understanding the Terrain

Knowledge Management, Law Firms, and Lawyers

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1

It Is Said That Law Firms
Don't Get Knowledge Management

A map of the world that does not include Utopia is not worth even glancing at, for it leaves out the one country at which Humanity is always landing.
—Oscar Wilde

Law firms, and lawyers, have been "doing" knowledge work, and knowledge management, since lawyering first began.

In every advice, in every transaction, in every call of a colleague to share an opinion or critique an idea, in every training session, in every practice team meeting, and in every work-related break-room conversation, lawyers have been building and sharing knowledge.

Yet, despite the deep tradition of knowledge work in the law, consultants to the legal industry, and technology consultants to the legal industry in particular, almost universally express concern about the state of law firm knowledge management. Charles Christian, legal technology writer and publisher, has voiced his "long-held concern that many law firms are still relatively clueless when it comes to KM [knowledge management] projects."[1] Neil Cameron, a leading U.K. legal technologist, thinks that it is "high time for law firms to develop an all-encompassing knowledge management system."[2] Professor Richard Susskind, the world's leading legal-technology author and futurist, acknowledges the abject failure of most firms' knowledge management programs to deliver any discernible value.[3] Susskind is concerned that there is a great danger that people's growing cynicism about KM will result in the whole concept being written off as a hackneyed buzzword with no value.

Notwithstanding the views of the legal technology consultants, it appears that law firms are embracing knowledge management. A 2002 survey of large and small firms by *Managing Partner* magazine and Perceptive Technology

indicated that 70 percent of law firms already had KM initiatives, and within twelve months 84 percent of firms expected to have one.[4]

So, far from not being interested in knowledge management, law firms are making significant investments in the name of knowledge management. Knowledge management initiatives do not come cheaply for law firms, requiring significant amounts of legal time, a dedicated support staff, and the costs of technology and implementation.

Why is it, then, that law firms, the archetypal knowledge business, are considered relatively clueless about KM, and yet are almost universally embarking upon expensive KM initiatives? Why is it that law firms, distinguished not by their entrepreneurial spirit or pursuit of research and development, but by their pursuit of relatively short-term profit-per-partner objectives, are spending big without doing their homework?

Why does your firm manage knowledge? Chances are that you are reading this book because you already have, or are considering, a knowledge management initiative at your firm.

All growth depends upon activity. There is no development
physically or intellectually without effort, and effort means
work.
—Calvin Coolidge

With these words in mind, pause now, and write down why you are involved in, or considering, a knowledge management initiative. List the reasons.

Really.

The top 5 reasons why my law firm invests in knowledge management
activities are:

   1.

   2.

   3.

   4.

   5.

In my experience, law firms are investing in knowledge management initiatives for a variety of reasons, although for the most part the reasons are not articulated within the firms themselves—often not even by the individuals involved in the projects. Further, most of the reasons given do not have any demonstrable relationship to the strategy of the law firm or to its business and financial success.

The reasons commonly given why law firms launch knowledge management initiatives include:

- Response to management-journal and business-press articles about knowledge management
- Response to the knowledge management initiatives of accounting firms
- A fundamental belief that knowledge is important to the quality and service provided to clients
- A belief that technology will enable the firm to productize and sell knowledge, providing additional sources of revenue and profit

Response to Management Journals and Articles

For some law firms, KM is indeed a fad, laying siege to the law firm management committee and providing interesting projects for the technology committee.

An avalanche of KM conferences, books, and articles in both trade and respected business journals over the last few years provides more than enough material to be sent to the managing partner with the inevitable Post-It note, "What are *we* doing about this???" Beneath the note, the article or conference brochure will almost always be an exhortation of the religion of knowledge management, outlining KM case studies from both competitors and clients of the firm.

These calls to arms require a response from management. As knowledge is such a "must-have" concept for law firms, few managing partners will respond to their fellow partners that all is under control and no attention is needed—"This knowledge economy and knowledge management stuff will soon pass." The response to the Post-It note query is more likely to be the launch of an initiative, or, at a minimum, a KM strategy review exercise.

Response to the Accountants

For some law firms, the launch of knowledge management initiatives is in part a defensive response, driven by fear of being disadvantaged by the technology and processes of the accounting firms.

The accounting firms have significant, and widely reported and acclaimed, knowledge management initiatives. They have been approaching knowledge management in their own systematic way for quite some time. Some law firms are concerned by the prospect that the accountants will be able to leverage their knowledge management methodologies to make themselves more nimble competitors in their emerging legal practices. The recent demise of Andersen has somewhat diminished the force of this driver.

In 2001, Ernst & Young was for the fourth consecutive year ranked one of the world's top twenty Most Admired Knowledge Enterprises (MAKE). The annual MAKE survey is completed by an expert panel of Fortune Global 500

senior executives, CKOs and leading knowledge management practitioners.[5] Recipients of 2001 MAKE awards included a range of nonlegal professional-services firms: McKinsey & Co. (9), Andersen (11), Ernst & Young (12), KPMG (13), and Accenture (16).[6]

The accounting and consulting firms have invested and continue to invest substantial sums in their knowledge management activities. McKinsey & Co. aims to spend some 10 percent of revenue on knowledge management each year,[7] KPMG aims to spend 1 percent of annual revenue on knowledge management,[8] and Ernst & Young has in excess of two hundred people committed to its knowledge management initiatives.

The scale of these investments, and the plaudits and attention accorded to the knowledge management programs of the accountants and consulting firms, is spurring some law firms to what they are afraid is belated action.

A Fundamental Belief That Knowledge Is Important

Other law firms are launching knowledge management initiatives because they intuitively know that knowledge management is important.

While some are scrambling to make sure their competitors do not leave them behind, others (particularly the larger firms) see knowledge management as necessary to deliver the coordination and consistent quality service that their clients expect, and the working environment and support that their partners and lawyers require. To some extent, client expectations are driving these firms—there is an increasing sophistication of client service expectations about speed of delivery, consistency of quality, and the application of technology to deliver efficient services.

Ability to Productize and Sell

Finally, the interest in knowledge management comes from other firms being driven by the quest for new sources of revenue and profit.

One of the lures of knowledge management for law firms is the opportunity to package legal information into a software offering for sale to multiple purchasers. In this way, firms escape the scourge of the billable hour and are able to charge for the product based on value, rather than the hours spent attending to the client's matter. The most active firms in the online product market are Linklaters with Blue Flag,[9] Clifford Chance with Nextlaw,[10] Mallesons Stephen Jaques,[11] and Blake Dawson Waldron[12] and Davis Polk[13] with virtual advisers.

For some firms, this carrot of "making money while you sleep" has been incentive enough for them to commit the resources to explore knowledge management. Getting knowledge management right is often seen as the precursor to productizing internal know-how for sale to clients.

The Conundrum

But, if lawyers "do" knowledge management, how can they be "relatively clueless"?

While lawyers, and law firms, "do" knowledge management, the knowledge strategy is rarely explicit, rarely documented, and rarely related to the hard issues of making money. Lawyers, and firms, create and use knowledge every day and have done so for many, many years—certainly before the emergence of knowledge management, the emergence of groupware and the emergence of the gaggle of nets (Internet, intranets, and extranets). There is simply no law firm that does not create knowledge, and manage knowledge, every single day. Day in, day out . . . knowledge aplenty.

It is true that a *lawyer's* knowledge strategy may not be documented or explicit (even to the lawyer himself)—it may be the happy (or unhappy) result of personal experience, reading, and networking. It is also true that a *law firm*'s knowledge strategy may not be documented or explicit. Further, it may not be sophisticated. At its simplest level, it will exist in the firm's criteria for the hiring of new lawyers, the purchase of books, the funding for conference attendance, the holding of practice group meetings, and the provision of forms and precedents.

The legal profession itself has always been a knowledge industry, with established practices for the creation, codification, and dissemination of knowledge. Case reporting practices developed over time and delivered quality and tailored knowledge to the profession. The most important cases were reported in the official case reports, digested by leading barristers and attorneys. Quality, not quantity, was the touchstone. Leading texts are published and updated in loose-leaf form by lawyers, generally leading practitioners in the field. Digests and encyclopedias are published, bringing context to legal issues, with references to leading cases, legislation, articles, and other knowledge and learning materials.

Clearly law firms, and lawyers, have knowledge strategies, even if they are not explicit. So why is it said that lawyers are considered "relatively clueless" about knowledge management?

In fairness to law firms, most organizations (even those lauded as KM success stories) can be said to be relatively clueless about knowledge management. This results, in part, from the total absence of a universally accepted definition of what knowledge management means in the first place.

When it comes to definitions of knowledge management, there are not even cohesive schools of thought that compete with one another for leadership. What is true is that:

- Law is a pure knowledge business, with revenues mostly based on billable hours.
- Knowledge strategy for law firms is not easy, particularly with the productivity paradox of the hourly rate.

- Most lawyers have an implicit approach to their personal knowledge management, resulting from personal experience and professional habits. Most law firms' knowledge management programs do not extend to assisting lawyers with personal knowledge management.
- Many law firms do not have a documented or explicit knowledge strategy related to business goals.
- Many law firms struggle with poorly integrated information management strategies and systems, particularly in relation to the classification and profitability assessment of matters. Most do not yet have digital asset management strategies outlining the information architecture for practice management systems, document management systems, and the various other digital assets of the firm.
- Many law firms, like many other organizations, have been seduced by the KM = IT perspective of the software vendors, believing that a knowledge management "solution" can be purchased and that knowledge can be managed without changing the processes and behaviors of its lawyers and its management. This technology focus blinds firms to nontechnology knowledge strategy, including effective practice group meetings, communities of interest, internal and external networking, physical communications, and personal accountability to learn.
- Knowledge strategy, as something other than a particular knowledge management initiative or product, is not discussed in many law firms. Information audits are conducted; intranets, precedents, and information banks ("infobanks") created. However, there is usually no engagement among the firm's lawyers or management about what knowledge is and how to think about a personal and organizational knowledge strategy. Consequently, there is no organizational consensus on what a knowledge strategy is, or what an appropriate strategy would be for the firm.
- Many law firms do not have the cultural underpinnings for successful knowledge management, which goes beyond having a "knowledge sharing" culture or investing in a technology solution.
- In some firms, practice-specific knowledge management initiatives are often created in flurries of interest and activity by technology-predisposed partners and lawyers, with the contribution rates, usage rates, and quality plummeting through disinterest within two years.
- In many law firms, there are different management structures and strategies for legal education, nonlegal education, knowledge management, and the library.

2

What Is Knowledge Management All About?

A page of history is worth a volume of logic.
—Oliver Wendell Holmes

The management concept of "knowledge management" originates from the writings of U.S. management writer Peter Drucker, who in "The Coming of the New Organization" in 1988 described the knowledge worker, hypothesizing that twenty years hence typical large businesses would be "knowledge-based."[1] If Drucker was right, and typical large businesses of the future will be "knowledge-based," then the management of that knowledge and those knowledge workers becomes an important competency for successful organizations. The application of an organization's knowledge and its ability to create new knowledge provide opportunities to gain a competitive advantage.

The term "knowledge management" then entered the business vocabulary, and several key works were published, including Ikujiro Nonaka and Hirotaka Takeuchi's *The Knowledge Creating Company* in 1995, Dorothy Leonard's *Wellsprings of Knowledge* in 1997,[2] and Davenport and Prusak's *Working Knowledge* in 1997, among others. *Working Knowledge* is mandatory reading for everyone involved in knowledge management at law firms. The major authoring and publishing activity in the field of knowledge management is summarized in table 2.1. Significantly, the core KM scholarship is not so large as to be inaccessible.

Drucker noted that one of the key enablers for knowledge management in large and geographically dispersed organizations would be the intelligent and appropriate use of technology.[3] Technology would have a role to play in connecting people, storing and providing access to information and knowledge, and providing tools for knowledge workers.

Table 2.1
Milestones in KM literature

Year	Book/article	Author
1988	"The Coming of the New Organization"	Drucker
1991	"Brainpower"	Stewart
1993	First conference specifically devoted to knowledge management, Boston	
1995	*The Knowledge-Creating Company*	Nonaka and Takeuchi
1995	*Wellsprings of Knowledge*	Leonard
1997	*The New Organizational Wealth*	Sveiby
1997	*Intellectual Capital*	Stewart
1997	*Intellectual Capital*	Edvinsson and Malone
1998	*Working Knowledge*	Davenport and Prusak
2000	*Enabling Knowledge Creation*	Von Krogh, Ichijo, and Nonaka
2000	*The Knowing-Doing Gap*	Pfeffer and Sutton
2001	*The Wealth of Knowledge*	Stewart

In the technology boom of the mid-1990s, the software and technology industries became the new champions of knowledge management. To the software industry, knowledge management equaled sales opportunity, and a slew of vendor-sponsored glitzy conferences ensued. Lotus Notes secured deep penetration among the accounting firms and many insurers as an "out-of-the-box" knowledge platform. Software offerings were repackaged as "knowledge management solutions." Boring document management systems that lawyers had been using for a decade were reinvented as sexy knowledge management solutions. Consulting services popped up among leading consulting firms to provide organizational knowledge management services and solutions to eager corporations.

In April 1996, writing in *Fast Company,* Brook Manville (director of knowledge management at McKinsey & Co.) and Nathaniel Foote (McKinsey's director of knowledge and practice development) wrote: "We have entered the knowledge economy. Suddenly knowledge is hot. Conferences on knowledge are the rage. Before we all get carried away with the exhilaration of knowledge, it's worth stopping long enough to identify some operating principles."[4]

Manville and Foote's principles were as follows:

Knowledge-based strategies begin with strategy, not knowledge.

The new form of intellectual capital is meaningless without the old-fashioned objectives of serving customers and beating competitors. If a company does not have its fundamentals in place, all the corporate learning, information technology, or knowledge databases are mere costly diversions.

Knowledge-based strategies aren't strategies unless you can link them to traditional measures of performance.

The hard truth is that if knowledge can't be connected to measurable improvements in performance—including improvements on the bottom line—then the knowledge revolution will be short-lived, and deservedly so.

The point of a knowledge-based strategy is not to save the world; it's to make money. It's for hard heads.

Executing a knowledge-based strategy is not about managing knowledge; it's about nurturing people with knowledge.

The trick is to balance the "hard" with the "soft"—tapping the knowledge locked in people's experience. This "tacit knowledge" is frequently overlooked or diminished by companies. In contrast, most companies have elaborate systems to capture and share their "explicit knowledge"—the stuff that shows up in manuals, databases, and employee handbooks. This kind of knowledge never translates into a winning strategy. What good is a database if it doesn't include what the employees really know?

Organizations leverage knowledge through networks of people who collaborate—not through networks of technology that interconnect.

Despite endless media hype about groupware and the "interconnectivity of the nineties," computer technology is not the real story. The IT graveyard is littered with companies that followed high-budget, "visionary" CIOs down the path of this or that client-server investment, or rolled out new e-mail systems—only to find that people still didn't want to collaborate to share and develop new knowledge. Interconnectivity begins with people who want to connect. After that, tools and technology can make the connection.

People networks leverage knowledge through organizational "pull" rather than centralized information "push."

Manville and Foote explain: "The engine that drives knowledge development and sharing is the worker's need for help in solving business problems; the power comes from the demand side rather than the supply side. . . . The essence of successful knowledge-based strategies is a company's capacity to raise the aspirations of each employee. These are the people whose contributions and ongoing development become the life-blood of performance gains."[5]

Despite the warnings from Manville and Foote, this stage of knowledge management is generally remembered as a headlong desire to capture, classify, and

make accessible information that was in people's heads, to capture and convert that information into a physical organizational asset. Knowledge management in the 1990s was mostly a software vendor– and conference organizer–sponsored crusade to convert tacit knowledge to explicit knowledge. During this period, knowledge management meant to capture tacit and explicit knowledge and make it accessible in some technology solution.

In April 2001, writing in *Darwin Magazine* beneath the headline "When Bad Things Happen to Good Ideas," Eric Berkman summed up the state of play: "Knowledge management is a solid concept that fell in with the wrong company. Software companies, to be precise."[6] Berkman says that by the late 1990s early adopters of knowledge management initiatives, and particularly technology-centric knowledge management initiatives, were running into trouble—expensive trouble. In most cases, senior executives, and often chief executives, had read and been excited by the articles developing Drucker's theme in relation to knowledge workers and the knowledge economy. Knowledge management as a concept promised shorter cycle times, increased productivity, better innovation, faster and better decisions, better collaboration, protection from knowledge leakage of departing workers, and the building of a new asset—who wouldn't want to buy a system to deliver all these things?

During the 1990s, many knowledge management projects were launched without a business goal other than "managing knowledge." Almost universally, these projects were technology-centric, whether the tool of choice was the expensive and proprietary Lotus Notes, an intranet, a document management system, or other databases and repositories. Leadership of the initiative was generally with the IT function, who was charged with building the knowledge management "system" that would deliver the assumed benefits to the organization—the untold benefits to be had when knowledge was managed.

All of this effort and investment occurred without an agreed-upon definition of knowledge management. All of this effort and investment occurred without stated business objectives. All of this effort and investment occurred on the belief in a better world.

Large databases were built with the best of intentions: much information and many documents were stored within them. The mantra and prayer of the leaders of these projects during the 1990s was:

> If we build it, they will come, *won't they*?
> If we build it, we will have knowledge management, *won't we*?
> If we have our knowledge managed, we will be better off, *won't we*?

So how did these projects do?

In *The New Organizational Wealth: Managing and Measuring Knowledge-Based Assets*, Karl Erik Sveiby argued that the confusion between knowledge and information has caused managers to sink billions of dollars in information technology ventures that have yielded marginal results.

That is worth restating: *billions* of dollars sunk into information technology ventures that have yielded *marginal* results. *Billions* of dollars spent capturing information into repositories with the best of intentions, but often delivering *marginal* results.

But what about the success stories? It is an interesting exercise to carefully review the tales of lauded KM success, which are often repeated in the literature. Pick up any of the books—the quoted success stories are often shared—the same players, the same stories. Are the success stories considered successes because a knowledge management system (or solution) was created, or are they considered success stories because of the superior financial performance that was generated for the organization?

Skandia, a Swedish insurer, is often cited as a knowledge management leader; winner of a 2001 MAKE award, it is ranked eighth globally Most Admired Knowledge Enterprise, leveraging the work of executive vice president Leif Edvinsson and his team. Skandia has received MAKE awards for many years, and in 1998 Edvinsson was honored as Brain of the Year by the British Brain Trust foundation. Has Skandia, as an organization, benefited from its knowledge management initiatives? Is productivity higher by comparison to their competitors? Is innovation greater? Skandia is an acknowledged KM success story and groundbreaker, but has KM success equated to business success?

Paul Strassman, an ex-CIO who has run IT for the Pentagon, Xerox, and Kraft, analyzed Skandia's economic performance to see if this recognized knowledge management leader had derived benefits from their oft-praised initiatives.[7] Strassman found that measuring the difference between market capitalization and book value, Skandia moved from thirty-eighth of 113 similar corporations in 1996 to a ranking of tenth in 1999. However, on profit per employee, which should identify the productivity gains derived from knowledge management practices, Strassman concluded that at "no time in the recent past has [Skandia] delivered results comparable to the median profit per employee of its 20 leading competitors." He continued, "My take on Skandia is that it has been very successful in promoting the price of its shares on the stock market. The extent to which its publicity campaign to be known as a pioneer of the intellectual capital movement has served that purpose I leave for you to judge."

Not a good tale for law firms focused on profit with no interest in promoting their share prices.

Strassman implies that the *brand impact* of Skandia's knowledge management initiatives has been greater than its productivity and profit impact. This brand impact has also been very important and useful for the accounting and consulting firms, who often tout their knowledge management efforts, and the scale of their investment and commitment, rather than the impacts and outputs of those efforts.

Ernst & Young's recruitment advertising places significant prominence on its reputation in knowledge management:

Delivering value for your career

  At Ernst & Young we offer you a great deal more than just a job. Join us and you are joining one of the world's leading professional services firms, with offices in 132 countries, more than 84,000 people world-wide and over 650 people in Ireland. . . .

  Ernst & Young has been independently judged as the firm which sets the standard amongst major professional services firms. We are acknowledged as being three to five years ahead of our competition in the area of knowledge management, and as the fastest growing of the largest multinational professional services firms. Our outstanding growth means that the opportunities for promotion and development are outstanding. We offer opportunities to both graduates and experienced professionals.[8]

Many of the lauded KM successes rely for their stature on the views of involved vendors and the views of the leaders of the knowledge management initiatives rather than the views of beneficiaries of the initiative, or the senior management that provided, and continues to provide, the funding.

  That is not to say that specific projects with a knowledge management dimension have not delivered substantial value for organizations. Christine Rollo and Professor Thomas Clarke of the Faculty of Business at the University of Technology, Sydney, researched international best practice knowledge management in 2001 and published a volume of 40 knowledge management case studies that have delivered business value.[9] Some of the commonly reported successes in the knowledge management literature are set out in table 2.2.

  The message from all of this is that law firms need to be very discerning when reading about knowledge management "successes" and must remain vigilant not to be distracted by interesting technology tales, which are unlikely to deliver business success in the economic model of law firms.

Knowledge Management for the Twenty-First Century

So with that short history, what does knowledge management mean? When a law firm thinks about knowledge management strategy, what is it all about?

  The leading knowledge management authors grace the new millennium with varying ideas of what knowledge management means.

  Verna Allee, president of Integral Performance Group, and named by *KM Magazine* as one of the top six movers and shakers in knowledge management: "Knowledge management means attending to processes for creating, sustaining, applying, sharing and renewing knowledge to enhance organizational performance and create value."[10]

Table 2.2
Success stories commonly quoted in the KM literature

Company	Cited success achieved
British Petroleum	Faster solution of critical operation problems using virtual teamwork and videoconferencing
Buckman Laboratories	New specialty chemical product revenues up 10 percentage points, new product sales up 50 percent; much faster response time to customer inquiries
Chaparral Steel	Industry-leading advanced minimill technology and innovation
Dow Chemical	Generated over $125 million in revenues from licensing and other ways of exploiting its patents and actively managing its patent portfolio
Hewlett-Packard	Faster delivery of new products to market by sharing expertise already in the company, but not known to its development teams
Hoffmann-La Roche	Reduction in cost and time to achieve regulatory approvals for new drugs
Kaiser Permanente	Reduction in time to open new Women's Health Clinic
Pfizer	Creation of Viagra (during testing of Viagra as a drug to fight angina, nurses recorded an unusual side effect—the trend was identified in a metadata analysis of the results by a clinician, and the failed heart drug became an impotence cure)
Skandia	Reduction in start-up time for new ventures to seven months, compared to industry average of seven years
Texas Instruments	Saved $1.5 billion in increased fabrication capacity through comparing and transferring best practices among thirteen plants

Source: Rollo and Clarke, *International Best Practice: Case Studies in Knowledge Management* and http://www.skyrme.com/insights/22km.htm.

Karl Erik Sveiby, author and principal of Sveiby Knowledge Associates, identifies two different tracks in the definition of knowledge management:

IT-Track
KM = Management of Information. Knowledge = Objects that can be identified and handled in information systems. This track is new and is growing very fast at the moment, assisted by new developments in IT.

People-Track
KM = Management of People. Knowledge = Processes, a complex
set of dynamic skills, know-how, etc., that is constantly changing.
This track is very old, and is not growing so fast.[11]

Thomas Davenport, coauthor of *Working Knowledge* and director of the
Accenture Institute for Strategic Change: "Knowledge management means
improving knowledge work processes."[12]

Bill Gates, founder of Microsoft: "Knowledge management is a fancy term
for a simple idea. You're managing data, documents, and people's efforts."[13]

Dr. Yogesh Malhorta, Syracuse University, founding chairman and chief
knowledge architect of BRINT Institute: "Knowledge Management caters to
the critical issues of organizational adaption, survival and competence in
face of increasingly discontinuous environmental change. . . . Essentially, it
embodies organizational processes that seek synergistic combination of data
and information processing capacity of information technologies, and the
creative and innovative capacity of human beings."[14]

The American Productivity and Quality Center: "The conscious strategy
of putting tacit and explicit knowledge into action by creating context, an
infrastructure, and learning cycles that enable people to find and use the col-
lective knowledge of the enterprise."[15]

TFPL, a leading international organization providing specialist consul-
tancy and other services to the corporate information market:

Knowledge management is an unfortunate term—knowledge
resides in people's brains and managing it is not possible or desir-
able. What you can do, and what the concepts behind KM are all
about, is to create and maintain an environment in which people
are encouraged to innovate, share, learn and use knowledge for the
benefit of the organization and the people who work in it—you can
mobilize knowledge.

Knowledge management: the creation and subsequent manage-
ment of an environment which encourages knowledge to be created,
shared, learnt, enhanced, and organized for the benefit of the orga-
nization and its stakeholders.[16]

My personal working definition of knowledge management is this:

Knowledge management is the behaviors and processes by which a
group of people maintains and increases their personal and collec-
tive actionable knowledge to compete, to increase performance and
innovation, and to decrease risk.

What is clear from the definitions of knowledge management provided
above is that *knowledge management is not about IT.*

Yet the populist view, no doubt created in some way by the many conferences and vendors keen to sell technology product or services, is that KM *is* about IT, that an IT "solution" is the path by which the espoused benefits of knowledge management will be reaped. In the 2001 *Managing Partner* survey on law firm knowledge management, 77 percent of respondents considered IT to be *the* critical success factor in the initiative.[17] International Data Corporation, a research group that focuses on technology, estimates that knowledge management software and services was a $6 billion industry in 2002.[18]

In "Does KM = IT?" Carol Hildebrand, senior editor of *CIO Enterprise* magazine, wrote: "Of all the business trends of the past decade, perhaps none—possibly excepting reengineering—is more closely associated with technology than knowledge management. . . . knowledge management is in danger of being perceived as so seamlessly entwined with technology that its true critical success factors will be lost in the pleasing hum of servers, software and pipes. As vendors label their document management, database or groupware products 'knowledge management solutions,' executives can be excused for mistaking the software for the solution. It's not."[19]

What is now clear from the history is that *knowledge management is about human behaviors and interactions, rather than about storage and servers.*

Knowledge managing activities have been occurring since the dawn of time, and certainly predate Drucker's analysis in 1988. While many believe Drucker signaled the start of knowledge-based enterprises, and the start of knowledge management, this is simply not true. What Drucker was signaling was a shift toward more emphasis on knowledge, not that there were not already in the economy organizations whose business model was already knowledge-focused.

Oral histories, painting on caves, trade guilds, apprenticeships, the writing of books, the writing of procedures, the collection of useful information in one's bottom drawer—these are all behaviors and processes by which we have endeavored to build and to share knowledge for greater personal and collective performance.

Knowledge management is observed occurring without specific "knowledge management" initiatives throughout the practice of law. Case reports are knowledge management. Articles and journals are knowledge management. Textbooks, loose-leaf services, online databases, and practice group meetings—all of these things naturally occur without the explicit hand of a "knowledge management strategy."

Perhaps knowledge management, as it applies to law firms, is a discipline of facilitation, measurement, and custodianship. As a discipline of facilitation, the task is to facilitate a greater degree of, and more effective, knowledge management than that which is naturally occurring in the system. It is focused investment and effort to achieve performance improvements from an increase in personal and collective actionable knowledge beyond that level which would occur without the facilitation and assistance. It is about facilitating a greater level of actionable expertise.

Of course, information technology often has a role to play—little modern knowledge work is undertaken without the hand of technology, but the technology is a necessary but not sufficient condition for success. Successful knowledge management will almost always have the hand of technology at work—the challenge is to have a reliable and supporting hand, not the dominant hand of the grim reaper.

Plants, like knowledge, will grow and cross-pollinate in fields without human intervention. Add the right fertilizer and pest control, and select fertile land for planting, and the harvest can be greater. The plants will grow without the human facilitation, but a greater yield is possible. Knowledge management as facilitation is the discipline of facilitating the right fertilizer and pest control, and the selection of the right people (human capital) for the growth of actionable knowledge to increase organizational performance.

Continuing the agriculture metaphor a little further, fertilizer and pest control do not come without cost. The farmer will determine whether the value of the increase in the harvest exceeds the cost of the fertilizer and pest control. The farmer will conduct a cost-benefit exercise, and an effective combination will be selected. Unless there is economic advantage to be had, no fertilizer will be purchased and applied, and no pest control used. So, too, with knowledge management, the discipline of facilitating fertilizer and pest control for the growth of actionable knowledge to increase organizational performance. Knowledge management does not come without cost; indeed, it is generally a very expensive exercise in human and capital terms.

There is simply no reason that knowledge management investments should not be subjected to the same analysis as any other organizational initiative or investment. To have knowledge management for the sake of having knowledge management is at best a gamble on faith, and at worst a total waste of time and effort. Knowledge management as faith is a very expensive religion. A farmer would not haphazardly throw *any* expensive fertilizer or *any* expensive pest control on his crop in the faith that his business will by definition be better for the sole reason that he has purchased and applied fertilizer and pest control.

So, too, law firms should not throw money at knowledge management without an understanding of the profit drivers for law firms, and an understanding of how a knowledge management initiative may improve that performance.

3

The Business and Economics of Law Firms

Lawyers are like rhinoceroses: thick skinned, short-sighted, and
always ready to charge.
—David Mellor

So how does knowledge management apply to law firms?

We now know that:

- Knowledge management is not about IT, or IT solutions.
- Knowledge management is the behaviors and processes by which a
  group of people maintain and increase their personal and collective
  actionable knowledge to compete, increase performance, and decrease
  risk.
- There is no point to having knowledge management for the sake of hav-
  ing knowledge management—there must be an organizational perfor-
  mance payoff to justify the effort and the investment.

In order to consider how knowledge management can effectively be
applied to law firms, we need to understand the business and economic mod-
els of law firms. To understand these things, we need to hear from two quite
different, but complementary, perspectives.

First, we need to hear from the oft-maligned bean counters, the accoun-
tants within the law firms. From the accountants we will learn valuable lessons
about what drives the financial outcomes of law firms from a quantitative
perspective. Without this quantitative understanding, it is simply not possible
to successfully approach knowledge management in law firms. And next, we
need to hear from the managing partners, the chief executives of the busi-
nesses of legal services. From the managing partner we will gain a different,
more qualitative perspective about building and managing a cohesive firm of

outstanding lawyers providing outstanding services to clients, about brand and market reputation, and about maintaining the balance between law as a business and law as a profession.

These two perspectives will enable us to understand the drivers and issues that contribute to sustainable performance for law firms, as well as the part knowledge management initiatives can play in achieving sustainable performance.

So, let's meet the finance director, in his mid-forties, extremely capable, bespectacled, a stylish dresser, and delighted that he has been asked to tutor us.

The Finance Director

Well, let me first say I am delighted that you have asked about what drives financial performance at the firm. It's the first time anyone involved in knowledge management at any firm I have been with has ever asked about money— other than to spend it or complain about the size of the budget!

As a business, law firms generally measure success based on what is termed "profit per equity partner." Profit per equity partner, which is normally abbreviated to PPEP, is the annual profit divided by the number of equity partners in the business. For example, if revenues were $100 million, expenses (like salaries, rent, technology costs, etc.) $60 million, and there were forty equity partners, the PPEP would be $1 million, being a profit of $40 million divided by the number of equity partners. As our business is a partnership, no salaries are paid to partners because they are not employees of the business, so there is no cost for partners included in the $60 million for expenses. You can see how the PPEP for this example is calculated in table 3.1.

This measure, PPEP, is consistently used in league tables published in the United States (the annual "AM Law 100" published by *American Lawyer*) and in England ("The Lawyer 100" published by the *Lawyer*).

Table 3.1
Calculation of PPEP

Example, Example and Example: Financial performance for 2002–2003	
Revenue (fees from clients)	$100 million
less	
Expenses (lawyers, rent, IT, etc.)	$60 million
Profit	$40 million
Number of equity partners	40
Profit per equity partner	$1 million

Most law firms' internal reporting systems measure PPEP at a range of levels within the firm—typically, a firm measures PPEP for the firm, for each office, and for each expertise area or practice group. For these smaller group-ings, we in the finance department calculate their billings, allocate costs like salaries, rent, IT, and the like, and then divide the profit for the group by the number of equity partners in the group.

For any firm, there is always a range of financial performances from the various practice groups, so that some practice groups have PPEP above the firm result, and some practice groups have a PPEP below the firm result. For example, for our fictitious firm in the previous example, if there were two offices of equal size and structure, one may have had a PPEP of $1.1 million, and the other office $0.9 million, so that the PPEP result for the firm would be $1 million.

I've got an extract of the league tables around here somewhere. Here they are—tables 3.2 and 3.3 show the U.S. and U.K. tables with the results for the major firms so you can see the numbers. PPEP and these tables are taken very seriously by law firm management.

The concept of PPEP derives from the work of professional services guru David Maister. In *Managing the Professional Services Firm*, Maister showed that there are two ways to calculate PPEP for a law firm.[1] Both of these ways yield the same result—but the second way separates the business elements that contribute to PPEP so that you can determine what business factors are driving the profit result. In this second way, there are four variables that multi-ply together to give PPEP. Maister called these the four profit drivers of PPEP.

Table 3.2
PPEP results for major U.S. firms (2002)

Rank	Firm	PPEP (U.S. millions)
1	Wachtell, Lipton, Rosen, and Katz	3.2
2	Cravath, Swaine and Moore	2.1
3	Cahill Gordon and Reindel	1.8
4	Davis Polk and Wardwell	1.8
5	Simpson Thacher and Bartlett	1.8
6	Paul, Weiss	1.7
7	Sullivan and Cromwell	1.7
8	Milbank, Tweed, Hadley, and McCloy	1.6
9	Skadden, Arps, Slate, Meagher, and Flom	1.6
10	Kirkland and Ellis	1.5

Table 3.3
PPEP results for major U.K. firms (2002)

Rank	Firm	PPEP (pounds)
1	Slaughter and May	920,000
2	Allen and Overy	735,000
3	Macfarlanes	720,000
4	Freshfields Bruckhaus Deringer	715,000
5	Clifford Chance	714,000
6	Gouldens	694,000
7	Herbert Smith	670,000
8	Linklaters	650,000
9	Dickson Minto WS	580,000
10	S.J. Berwin and Co	528,000

Source: The Lawyer 100, *Lawyer* (2002). Available: http://www.the-lawyer.co.uk/LawyerNews/top100/editorialpages/table_t100UK.asp. (accessed December 18, 2002).

The First (and Traditional) Way of Calculating PPEP

The traditional way to calculate PPEP is to take the profit of the firm (revenues less expenses) and divide that by the number of equity partners in the firm. This is what we did in our earlier example. While this process calculates the profit result, it does not tell you what *drove* the result. For example, knowing the PPEP results of our two offices, one at $1.1 million and one at $0.9 million, does not help us understand *why* the performance of the two offices was different, it just tells us that they were different. It doesn't tell us anything about what to do to improve the result of the lower office.

The Second Way of Calculating PPEP: The Drivers

Maister analyzed PPEP to determine the business indicators, or drivers, which combined to produce the PPEP result. As I said before, Maister calculated that there are four drivers—shown in his formula below—that multiply together to yield PPEP.

PPEP = average realized rate × leverage × margin × utilization

Let me tell you about each of the drivers.

Average realized rate is the average hourly rate achieved by the firm, calculated by dividing total billings by the number of hours billed. Average realized rate is a number, such as $340.

Leverage measures the extent to which the firm leverages its partners and more experienced staff—that is, the extent to which partners are supported by, and lead, a team of associates. Leverage is calculated by dividing total fee earners for the team by the number of equity partners. For example, a leverage of 4 means the partner is supported by three lawyers (i.e., there are a total of four fee earners, of which the partner is one, so there are three lawyers).

Margin measures the profitability of the team and is calculated by dividing the profit for the group by the fees charged by the group. The profit for the group will be the group's revenues, less its direct and indirect expenses allocated to it. Margin is a percentage, for example, a margin of 38 percent means that 38 percent of each dollar in fees is kept by the firm as profit.

Utilization measures the average utilization (or billable hours recorded) of all of the fee earners in the team—partners and all associates. Utilization is calculated by adding all of the hours worked by the group and dividing this by the number of fee earners to result in an average utilization per fee earner. Average utilization is a number of hours, for example 1,880 hours per year.

So, returning to the formula, four variables multiply together to yield PPEP for a firm. Using the example drivers given above would yield the following:

$$\text{PPEP} = \text{average realized rate} \times \text{leverage} \times \text{margin} \times \text{utilization}$$
$$= \$340 \text{ per hour} \times 4 \times 38 \text{ percent} \times 1{,}880 \text{ hours}$$
$$= \$1\text{m}$$

The value in this second way of calculating PPEP is that it tells you what's driving the current profit performance, and enables identification of the behaviors which you can take in managing the firm to generate better financial performance. What the drivers can tell us is the impact to the financial performance of the firm by achieving increases in one or more of the four drivers—average realized rate, leverage, margin, and utilization.

Maister describes the first two drivers as health factors, and the second two as hygiene factors.[2] The health factors are about being more profitable by working smarter, and the hygiene factors are about being more profitable by working more hours or having lower amenity. For the hygiene factors, it is

Table 3.4
Methods of increasing firm PPEP

	Hygiene factors	Health factors
Objective	Increase financial performance by working harder or sacrificing expenses	Build a better, sustainable business by developing leading expertise and working smarter, not harder
Drivers	Margin Utilization	Realized rate Leverage

important to deliver quality, and keep costs controlled (and therefore achieve margin goals) and important that utilization levels are managed, however it is only by sustainable increases in realized rate and/or leverage that a better business is built. Table 3.4 analyzes the two methods.

Hygiene Factors

Increasing performance can be achieved relatively easily by either cutting costs (to increase margin) or working people harder and harder (by increasing utilization). This will deliver relatively short-term success; in the long term it will damage the performance of the firm by damaging the quality of services provided to clients, and it will result in lawyers leaving the firm. These are hygiene factors because it is important they are managed, but there are limits to how much increase can be derived by using them.

Health Factors

Improving performance by increases in the health factors is more difficult, but more sustaining.

One can increase the average realized rate only when the firm has developed expertise or efficiency beyond the level of skill normally present in the market. Building these skills will deliver a superior profit performance *without* working harder. Similarly, development of tools, education programs, and supervising processes will enable a firm to increase its leverage, which again can deliver a superior profit performance *without* working harder.

The Drivers Are Interrelated

A mistake most people outside the finance department often make is thinking that the four drivers are independent. That is, people think that they can increase one of the drivers and recalculate the impact on PPEP by using the previous state of the other three drivers. For example, they first work out what PPEP they want, and then change one driver to make the difference. But life is not quite as simple as that.

The four drivers are actually interrelated; changing one has an impact on the other drivers.

A buddy of mine was at a firm where a high-priority project was to increase the performance of a practice group, and two teams were created. The first team, team A, was asked to focus on increasing the group's average realized rate. Team B was asked to focus on increasing the group's leverage.

Well, team B, the leverage team, found an outstanding additional junior lawyer to join the team. New business development work provided enough additional hours so that, even with the new lawyer on board, the average utilization of the team members did not go down. In other words, the new lawyer was utilized to the same level as the other team members.

By virtue of team B's success in increasing leverage, team A, the aver-age-realized-rate team, was in trouble. Since the new lawyer's hourly rate was below the average of the existing team members, the average hourly rate for the team dropped, much to the frustration, disillusionment, and confusion of team A.

So, PPEP was up for the group, but team A was criticized as failing to deliver on its goal of increasing realized rate. My buddy understood—and it drove him nuts that no one else over there got it!

The lesson here is that your focus should be on increasing PPEP, not on increasing every one of the drivers. In fact, in order to increase PPEP, it is rarely, if ever, possible to simultaneously increase all of the drivers. To increase PPEP, one or more of the drivers will decrease, while one or more will increase.

Lawyers often get stuck on this one, thinking that they want the highest of everything—just like it was a law school exam or a contest, rather than a matter of understanding the math.

KM and Law Firm Economics

With this background in drivers and law firm business models, you ask how knowledge strategy and knowledge management relate.

Well, I often get people wanting to spend money to make legal work "more efficient," but that just plain doesn't make sense to me.

For example: Let's say we do some work which currently takes four hours, and assume an hourly rate of $200 an hour. So that's $800, which we bill, our client pays, and I put in the bank. Now suppose by spending money on tech-nology, and spending some money on lawyer time to write some precedents and forms, that we can then do that same work in one hour. So, one hour at $200 an hour gives me fees of $200, and we have to find new work for the lawyer to do to replace the billable hours he has lost. Therefore, we go from $800 for four hours of work by the lawyers to $200, *and* I have to pay for the cost of the technology and everything else for this new efficiency. Not such a great deal!

The only way it would make sense to me is if we can change the basis of charging. We could increase the hourly rate for the work, but our clients resist this because they are comparing us to the card rate for lawyers from other firms. We could move to fixed-price billing for the work, say $600 a job or something like that, but most of our clients are still wedded to the billable hour for most work.

But don't get me wrong; I really do believe there are ways in which knowl-edge management can be used to improve performance.

Improving Performance with KM

Let me give you some examples of how I think knowledge can be used to improve performance by looking at each of the drivers we spoke of earlier.

Utilization

As you know, there are two categories of time lawyers spend in the office—billable time and nonbillable time.

The nonbillable time spent by lawyers covers a whole lot of things, mainly firm, administrative things like preparing responses to tenders. Knowledge strategy, and knowledge management, can increase our firm's performance to the extent to which it can decrease the amount of time spent by our lawyers on those nonbillable activities.

In other words, knowledge management makes sense to me if it's driving productivity in these nonbillable tasks, which can then either be captured as billable time (for those below their billable targets) or give the high performers a break.

So, the impact of making nonbillable tasks more efficient is to either increase the average utilization or retain staff members by needing them to spend less time in the office to achieve their budget of billable hours. Retaining the lawyers we want to retain saves us a significant amount of money, in search costs and also in the utilization loss as the departing lawyer winds down and the new lawyer comes up to speed.

I call this category of knowledge management strategy the "should-haves"—they are initiatives that are not *necessary* for the functioning of the firm, but for a small expenditure we can clearly get a performance improvement. Take, for example, resumes of our lawyers for tenders. At my last firm, for every single tender, the lawyers would have to get handcrafted updated resumes from each of the lawyers for the proposed team. In the next tender, the whole process would be repeated without using any of the previous work. Lawyers would spend hours and hours just compiling resumes. A should-have knowledge management project would have been creation of an accessible, maintained collection of resumes for our people to use so that there was not so much expensive reinventing of the wheel.

This was a should-have project because we could still operate as a firm without doing it, but we could have increased profits (by decreasing nonbillable time) and been a better firm if we had done it right.

Margin

Included within the margin calculation is overhead—the expenses of the firm—which includes library services, technology, precedents, knowledge staff, and so on. A law firm can't function without certain overhead items; they are necessary tools, expected by lawyers and clients alike, and are an essential part of providing quality professional services to clients. However, it's important that overhead costs are controlled—it's always possible to incur additional overhead in the name of client service, but controlling overheads is a key part of effective law firm management, as well as a key part of my job as finance director.

There are two ways in which I believe knowledge strategy affects our margin. The first is the must-have knowledge management projects, and the second way is another example of should-have knowledge management projects.

I can see that there are components of knowledge strategy that we need to have to be in the legal services business and to serve our clients. We need to have the legal research materials required by our lawyers, the legislation, the cases, the books, the online subscriptions, and so on. I get that. But I can tell you that I am not at all happy that I now seem to be paying more for the books and the CD-ROMS and the Internet subscriptions than I ever did when there were only books. Gotta love progress! But I suppose that's not your fault.

Anyway, in addition to this expensive, externally-sourced material, I agree that there is also an investment we need to make in creating internal materials to ensure quality and to compete effectively. For example, our clients expect us to have precedents and forms for common legal agreements. The quality of these precedents and forms is one of the reasons why clients choose us. All of the firms have developed these precedents and forms over the years. I accept that we need to invest in the creation and maintenance of these documents, but I also believe that we need to be careful to ensure that we do not invest time and effort creating precedents and forms *beyond* those that the market expects.

If you go and ask the lawyers what precedents they want, the list is never-ending. But as finance director, I have to pay for all that! Surely the question we should be asking our lawyers is what excellent precedents they *need* to compete and to win work—not what precedents they would *like.* This way, we get a focus on competitive advantage and quality, rather than getting a huge list of documents to create that requires a whole bunch of expensive lawyers to write.

This category of knowledge management strategy I call the "must-haves"—that is, the question is what must we have in order to compete. For me, the question here is what is the minimum appropriate expense to deliver sustained quality legal services to clients and support to the firm's lawyers. The challenge here is to identify the must-haves, to efficiently and effectively deliver them, and to constrain spending to the must-haves rather than explore every possible opportunity. The costs of these must-have items are included in the expense line for the firm, decrease the margin percentage, and therefore decrease PPEP. It's a question of balance.

As I said earlier, with margin there are also should-have knowledge management projects. These should-have projects are initiatives that can increase the margin by reducing the amount of support resources required by lawyers. In other words, if a knowledge management initiative can reduce the expense of the support we provide to legal staff, expenses will be reduced and the margin improved.

In relation to margin, these should-have projects will do one of the following:

- Make the support staff more productive (so I need less of the support staff)
- Converge some of the work previously done by support staff into the time spent by lawyers (so I need less of the support staff). For example, lawyers entering their own time into the practice management system rather than writing a manual timesheet, with me paying secretaries to rekey the information into the accounting system.

Examples of these should-have margin projects that I can think of are:

- Training lawyers to be better at using the word processing and e-mail software to reduce the amount of support resource needed
- Training lawyers to have better research skills, so we need fewer library researchers than the other firms
- Creating productivity tools and better training and performance management for the secretarial and word processing support staff so we get a higher, more consistent quality from them and decrease the support ratio
- Using inexpensive technology and processes to standardize and/or automate elements of back-office functions in human resources, marketing, finance, office management, and technology

I'm all for these should-have projects—small investments with obvious upside, which will result in some behavioral change within the firm that enables me to improve the margin. But we all need to be careful that everyone signs on at the beginning to a reduction in the support level or a change in the method of internal service delivery; otherwise we get the costs of the initiative but never the benefits.

Leverage

Knowledge strategy has a really, really important role to play in leverage: first, in helping partners understand the impact of leverage on the profitability of matters and their practice, and second, in facilitating the delegation of work to nonpartner resources by using tools or documents embedded with the experience of the firm. The extent to which a matter is leveraged has a profound effect on matter profitability, far more important than the hourly rates that are being charged for the work.

I'll show you what I mean. Let's compare two identical matters for different clients to understand the difference. On the first matter, the partner likes the client, is interested in the area, and does half of the hours on the matter herself, using a junior lawyer for the rest. For the second matter, the partner is busy with other deadlines, and does only 25 percent of the work herself; a supervised lawyer spends the rest of the time.

To examine the PPEP difference resulting from the different ways of doing the work, we need to make the following assumptions:

- Hourly rates are $400 and $250 per hour for the partner and lawyer respectively
- A constant margin of 38 percent (not strictly true, but this will be close enough for our purposes)
- Average utilization of 1,800 hours per year for the partner and the lawyers

In order to understand the PPEP impact, we extrapolate what the PPEP of the partner's practice would be if *all* of her matters during the year were conducted the same way: that is, if the partner did only these types of matters and managed them in the same way as between herself and her junior lawyers.

As the model in table 3.5 shows, the PPEP impact is huge, being the difference between a PPEP of $445,000 and nearly $1 million PPEP. Of course, this also means that the volume of revenue that the partner must get each year is also very different: from around $1.2 million to $2.5 million. Curiously, the fee for the matter is actually smaller on the more leveraged matter (the second one), but because there is less partner time and therefore higher leverage, it makes a much better contribution to PPEP.

Table 3.5
Impact of leverage on PPEP

	Matter 1	Matter 2
Hours on matter		
Partner hours	10	4.5
Junior hours	10	18
Partner fee	4,000	1,800
Junior fee	2,500	4,500
Total fee	**6,500**	**6,300**
Rates		
Partner	400	400
Junior	250	250
PPEP extrapolation		
Average realized rate	325	280
Margin (assumed constant)	38%	38%
Utilization (assumed constant)	1,800	1,800
Leverage	2	5
PPEP	$444,600	$957,600
Practice revenue	$1,170,000	$2,520,000

Note that the average realized rate diminished from $325 per hour to $280 per hour, because less of the total time is being charged at partner rates. But PPEP, which is the objective, has increased. Remember that I said the drivers are interrelated.

So the first way a knowledge strategy can help is getting this knowledge into partners' heads, so that every time they think about how they are staffing a matter they are thinking about PPEP impact, not just getting the work done.

Don't get me wrong, I want the matter to be done well for the client. But at the end of the day, a lot of our partners around here do work that *could* be done by someone else. Worse still, one partner I know feels proud of doing the really large and complex matters on a low-leverage model (which hurts PPEP) and then harasses me to nickel-and-dime overhead expenses that hurt our quality and our people.

Now I know that education and provision of information to partners about matter profitability, the importance of leverage, and effective delegation and supervision is not normally what you knowledge guys are interested in, but hey, it's knowledge, isn't it? In this case, the knowledge strategy investment relates not to creating legal work product, or databases, or anything fancy, but simply to assisting with operational processes where the work we do can simply be done by more junior resources without further investment in tools. This education, and system support for matter profitability, is again a should-have initiative, because, strictly speaking, we do not need to do it in order to continue functioning as a business, but gracious, we sure as heck should do it. The costs of such an initiative would be paid back many times over. You would really help me if you did something about this knowledge!

Now, the second way that knowledge management can pay off for us in relation to leverage is investing in initiatives that enable us to maintain or increase our leverage (the share of the total hours for the matter done by non-partner resources).

If a partner or lawyer wants to talk to me about making legal work for lawyers more efficient, I am not particularly interested. Impressed, but not particularly interested. However, if a partner or lawyer wants to talk to me about how we can invest some money in documents, systems, training, processes, whatever, to enable the same quality work to be delivered to clients with less partner time, well, then she has my complete attention.

What the leverage model earlier tells me is that there is a huge payoff in knowledge strategy where it can support, or increase, our leverage model *without* diminishing quality of service to clients. Note that this is entirely different to making work already done by a nonpartner more efficient, which would actually diminish the profitability of the matter and reduce PPEP.

Obviously these kinds of things need to be analyzed as "investment decisions," and I would need to be confident that after the investment is made:

- We can deliver the same quality (or better) legal service to the client with a smaller share of partner time.

• Our partners and lawyers will change their behavior and move to the higher leverage model for these matters.

There is simply no point spending the money if we continue to do the work on the same leverage model—or, worse, the partner decides that she will do more of the work herself now because the process is now so easy and efficient.

Average Realized Rate

The last of the four drivers is average realized rate.

As we saw in the little model I gave you before, knowledge strategy to support an increase in leverage without a diminution in quality will actually reduce average realized rate. So we need to be sensitive to that rather than thinking we have failed if leverage goes up and average realized rate goes down.

The only way that I can see that knowledge strategy can simultaneously increase PPEP *and* average realized rate is where there is a shift away from hourly rate billing for particular types of work to fixed fees, and we make investments to make that fixed-price work more efficient. In these circumstances, the client may actually get a reduced fee for the service (and faster service) and we can deliver the work more profitably than previously. Of course, it is vital that there is agreement with the client to change away from hourly rate billing *before* we spend the money making everything more efficient—otherwise the impact will be to reduce revenue, leverage, and PPEP!

This is another of the "investment-decision" category of knowledge management initiatives—if there is a business case, and the agreement of one or more clients to move to fixed-fee billing for the work that proves the business case, then I'm in.

Well, I hope all of that helps, 'cause people round here often think that I just hate spending money on anything, and that I never support anything to do with knowledge management initiatives. Truth is, as long as we separate the parts of it and manage them appropriately, I'm all for it.

Just remember:

• Always think PPEP impacts; nothing else matters.
• Efficiently manage the must-have projects: if we can do them better than the competition and for less money, we make higher PPEP.
• Identify and deliver on the should-have projects, which are mainly behavioral changes, processes, or really small system changes, which can make lawyer nonbillable tasks more efficient, decrease support costs, or increase understanding and the quality of management.
• Always look for "investment decisions" that increase PPEP (like investing in processes which enable an increase in leverage) and be ruthless about the commitments you need from clients, partners, and lawyers

about behaviors after the new system is introduced in order to deliver on the value in the business case.

See you at budget time, and see what you can do about the cost of all the CDs and Internet sites—OK?

Debrief

So, what did we learn from our finance director?

- PPEP is the measure of profit used by law firms, and you must always be able to relate any knowledge strategy initiative to its impact on PPEP. *Always.*
- PPEP is calculated by multiplying four variables together: average realized rate, margin, utilization, and leverage. You must implicitly understand these variables at the firm level, for each office, and for each of the practice groups in your firm.
- There are "must-haves" in law firm knowledge strategy, which are items necessary to compete. The objective in relation to the must-haves is to make sure you are efficient in funding and delivering the core legal knowledge (both internal and external) necessary to deliver your services.
- There are "should-haves" in law firm knowledge strategy, places where you should take opportunities to make nonbillable tasks performed by lawyers more productive and to reduce the amount of support resources required by your lawyers (i.e., reducing the support ratio).
- There are "investment decisions" in law firm knowledge strategy that *change* the way the legal service is delivered. Here, subject to a business case, you should take opportunities to increase or maintain leverage by creating tools and methodologies, or to move to fixed-price billing for particular types of matters to capture the productivity gains of investment in methodologies and tools.

And now we turn to the managing partner. The managing partner is in her late forties, a respected corporate lawyer, a good team leader and coach, and very, very well respected throughout the firm.

The Managing Partner

Thanks for stopping by, come in—I understand you've already spoken to the finance director—he certainly knows how the math of law firm profits works! Did he get out that big old calculator of his? It must be more than twenty years old!

As managing partner, leading the firm, the issues on my agenda are a little more subtle than the strict accounting analysis would indicate, particularly in

the impact on the firm's lawyers and the firm's competitive position in winning and retaining clients.

Let me tell you a story.

Several years ago, the general manager of a manufacturing plant was under pressure to lift profits. He figured out that if the workers worked longer shifts, and if he invested in increasing the capacity of the plant, then he would make more profits. He would produce more product in the same amount of time and sell it to make more money. He did the financial modeling, all the spreadsheets, and the math was unarguable.

Well, the investment was made, and the additional capacity came on line. The workers were told they had to work longer hours to deliver the plant's new profit objective.

The manufacturing plant needed relatively skilled workers, and things were coming to a head, because with the longer hours the general manager kept losing people—his best people—to the competition. Customers were not happy, either, because the quality and turnaround times were slipping. The workers who remained had to work even harder in order to make up the difference, and they were not happy, which affected their dealings with customers and the product quality.

Now, no doubt productive capacity was up; the plant could now produce twice the amount of its product each year. It could now produce twice its previous output of long-playing vinyl records as it did before. Twice as many LPs.

The general manager thought the LP would live forever, and never saw the compact disc coming.

Needless to say, things did not go well for the general manager, his plant, or the company. The market had moved and no longer wanted vinyl records.

The moral of the story is that the math of accounting measures *outputs,* making a range of assumptions about clients, competitors, technology, and the business environment that will not always remain true.

In our story, the general manager's math was right. He would make more profit by following his strategy if all of the following were assured:

- He could retain his people.
- He could maintain his quality with the increase in capacity.
- Demand continued for his product.
- He could find buyers for the increased plant capacity.

So it is with the PPEP analysis, which is unarguably mathematically correct, but which focuses on outputs and makes several important assumptions. Seeking to increase PPEP solely by reference to increasing one or more of the drivers assumes that:

- Quality lawyers will continue to be attracted to the firm, irrespective of the change in the drivers.
- Your existing lawyers will be retained.
- Legal quality and expertise will be maintained.

- Culture, and client service, will not be adversely impacted.
- The flow of work will continue next year, and be available to fill any additional leverage that is created.
- Existing clients will be retained, and new clients captured.
- Our services and expertise continue to be relevant: there are no major changes to which we need to respond.

The truth of the matter is that decisions taken in relation to each of the four drivers affect the two key stakeholders for a law firm: the firm's lawyers and the firm's clients.

We will be a successful and profitable firm only if we attract and develop quality lawyers who provide outstanding services that clients want. Notice that I put our people first there. There is a shift occurring in the thinking in professional services firms, wherein people are beginning to realize that great service to clients comes only from motivated, happy, challenged, professionals. You simply do not get great service for clients from demotivated professionals—we are dealing with people here, clever people, and clever people need to be challenged and supported.

As a firm:

- We need to make sure that we continue to be a place where great lawyers want to work.
- We need to be a firm that has an outstanding reputation for technical excellence, commerciality, and client service, so that we get the best work for our lawyers.
- We need to be a firm that is continually at the leading edge of new developments in the law, continually innovating to help our clients succeed.

We will do these things and continue to be successful only if we support each other as part of a team, to be what David Maister would describe as a "one-firm firm."

All the math and analysis in the world will not help us if we do not look after our people, and our clients, as professionals.

As to what delivers financial success to law firms, you already know that it's possible to be a successful law firm in different ways. You can be successful charging high hourly rates and have low leverage, or you can charge lower hourly rates with higher leverage and be just as profitable.

Maister has demonstrated in a statistical study[3] that there are nine key factors that explain more than 50 percent of all variations in profit among a survey of professional services firms around the world. Irrespective of country, size of practice, leverage model, and line of business, these nine factors, taken as a group, explained over half of the profit variations. Those factors, expressed in the study as statements, were:

1. Client satisfaction is a top priority at our firm.
2. We have no room for those who put their personal agenda ahead of the interests of the clients or the office.

3. Those who contribute the most to the overall success of the office are the most highly rewarded.
4. Management gets the best work out of everybody in the office.
5. Around here you are required, not just encouraged, to learn and develop new skills.
6. We invest a significant amount of time in things that will pay off in the future.
7. People within our office always treat others with respect.
8. The quality of supervision on client projects is uniformly high.
9. The quality of the professionals in our office is as high as can be expected.[4]

These key factors were a bundle—statistically all of them were present in the high performing firms. You have probably already noticed that knowledge clearly has a role to play in several of the nine!

What all of this means is that there are balances, tradeoffs, and investments to be made simply to continue to be successful, to maintain our level of performance. We need to invest in winning the best work, in competing with other firms on expertise, quality, service, technology, and knowledge. We also need to invest in winning the best lawyers, building an environment in which the best want to work and to help clients.

I do not disagree with the finance director's analysis of the math, and I would even endorse his analysis of the must-haves, should-haves, and investment decisions as a convenient way to approach knowledge management investment. Of course, it is in considering the investment decisions category that the board and I may take a longer-term view than the finance director, considering impacts on our people, our expertise, and our clients, as well as current-period PPEP.

What I do expect from you is that irrespective of the category—be it a must-have, a should-have, or an investment decision—the focus of any knowledge initiative must be consistent with our culture and be focused on:

- Increasing the expertise, quality, and job satisfaction for our lawyers
- Differentiating the firm from our competitors to provide a competitive edge
- Winning profitable work that we want to do
- Delivering on our brand promise to our clients

If we do not do these things, we, like the plant manufacturing vinyl records, will lose great people, build expensive excess capacity, and significantly damage our financial performance.

Good luck.

4

Lawyers as Knowledge Workers
What Lawyers Do

Knowledge, a rude unprofitable mass,
The mere materials with which wisdom builds,
Till smoothed and squared and fitted to its place,
Does but encumber whom it seems to enrich.
Knowledge is proud that he has learned so much;
Wisdom is humble that he knows no more.
—William Cowper

Having examined the history of knowledge management, and the business model of law firms, we now know that:

- Knowledge management does not equal IT, or IT solutions.
- Knowledge management is the behaviors and processes by which a group of people maintains and increases their personal and collective actionable knowledge to compete, increase performance, and decrease risk.
- There is no point to having knowledge management for the sake of having knowledge management—there must be an organizational performance payoff to justify the effort and the investment.
- The principal measure of law firm profit is profit per equity partner, or PPEP. PPEP is calculated by multiplying four drivers—average realized rate, margin, utilization, and leverage—together.
- Law firm knowledge management initiatives can be considered in three categories: "must-haves," "should-haves," and "investment decisions."
- In considering investment decisions in knowledge management, an investment may be made to sustain quality, to attract or retain lawyers, and/or to attract or retain clients.

So, what is actionable knowledge for lawyers? How do lawyers, as knowledge workers, work?

We need to understand the way in which lawyers gain knowledge, interact with knowledge, and create new knowledge and work outputs in order to identify their knowledge needs and uses and to identify the potential points in

their work processes where a knowledge management initiative can increase performance.

In this chapter we will answer the following questions:

- How does a human process a complex knowledge task?
- How are organizational learning and knowledge management related?
- What types of knowledge do lawyers use?
- What is the knowledge ecology in the performance of legal services?
- What are the sources of knowledge that contribute to the "in-brain" knowledge of lawyers?
- How do lawyers contribute their "in-brain" resources or tacit knowledge to organizational resources?

How Does a Human Process a Complex Knowledge Task?

To consider how a human processes a complex knowledge task, let's examine a case study of how four different people approach a complex legal question. There are four participants in this study. Let me introduce them.

First, we have Jane, a forty-two-year-old takeover lawyer with a large New York law firm, a leading transactional lawyer who is highly regarded within the profession.

Second, we have Patrick, a highly regarded forty-two-year-old constitutional lawyer in a specialist firm in Washington.

Third, we have Henry, a starry-eyed but diligent twenty-two-year-old first-year law school student.

And, finally, let me introduce my oldest daughter, Elizabeth, age six.

To each of these people we pose a complex constitutional law question written on a piece of paper. Each sits alone in the Harvard Law School library, with full access to all its resources, and is allowed sixty minutes to address the question. Let's see how they got on, starting with the youngest.

Elizabeth: Elementary School Student

Elizabeth takes the piece of paper in both hands and proudly recognizes some of the words within the paragraphs. However, most of the words are beyond her vocabulary. After a while, she creates a wonderful drawing on the front and back of the page. Delighted with her drawing, and having run out of paper to draw on, she is finished.

Henry: Law School Student

Henry's studies have not yet included constitutional law, but he has learned the basics of legal research in his studies to date.

Sadly, Henry has developed electronic myopia in his approach to knowledge and learning. Electronic myopia is a learning disability plaguing many students of the late twentieth and early twenty-first centuries—if something is not on the Internet or on an electronic database (like Westlaw or Lexis), it is presumed not to exist.

Thus Henry's research is limited to cleverly constructed searches of Westlaw, and he manages to find some cases that seem to talk about the issues that he thinks arise from the problem, but he cannot assemble a cohesive answer in his sixty minutes. He does, however, have printouts of Web pages stacked an inch high.

Patrick: Constitutional Law Expert

Patrick, our specialist, reads the problem, and issues begin to form in his mind.

He sees that the problem raises issues in a handful of areas, which he recalls were resolved in several leading cases, the names of which he partially remembers. He is not sure of the ultimate conclusion on the point, or whether those cases have been considered since, but he has a trail to follow. Additionally, Patrick has a language to frame the issues he identifies: antitrust issues related to the Jones amendment. He searches the electronic library catalog for the location of the library's constitutional law resources and locates the leading constitutional law textbooks and loose-leaf volumes on the shelves. These are resources well known to him in his practice.

Patrick checks the publication dates to determine the currency of the information in the textbooks and loose-leaf volumes. He then uses Westlaw to find and update the cases, the names of which he has located from the textbook in the chapter discussing the Jones amendment.

Exhausted, but happy to finish, he prepares a short note that addresses the issues.

Jane: Mergers and Acquisitions Partner

Jane, our big-firm takeover specialist, barely remembers studying constitutional law at law school, though she has practiced law by acting for some the world's largest corporations in their most complex mergers and acquisitions. She does, however, recall enough about constitutional law at law school to be able to identify some of the issues raised by the problem, and she realizes that the Jones amendment will be an issue.

Jane does have three pieces of knowledge that will make the difference in how effective she is at solving the problem:

1. She knows how to use her cell phone.
2. She knows that Aaron, a partner in her Washington office, is a constitutional law wizard.

3. She has her office telephone number, through which she can reach Aaron.

Jane calls her office and is soon transferred to Aaron's office in Washington. Aaron is not available, but his assistant consults the firm's expertise database to see who else is very strong in constitutional law, and Jane is transferred to Glenda, who is also in the Washington office.

Jane and Glenda discuss the problem for five minutes. Glenda can answer several issues from her own knowledge, but needs to check a case, and an opinion she and Aaron wrote last month on point, to provide an answer. Glenda calls Jane back in fifteen minutes and provides the complete answer after reviewing the opinion. Jane thanks her for her efforts, and asks her to make sure that she writes a file note for consideration by Aaron and remembers to mark the file note as completed so it is added to the firm's digest.

Case Study Debrief

The case study provides a useful context to explore the way human beings approach knowledge tasks and the necessary requirements for effective knowledge work.

All four people had access to all of the resources in one of the world's leading law libraries. All four people had access to every conceivable electronic legal resource. All four people had access to the Internet. In other words, each of our participants had access to a vast array of *managed knowledge.*

And all four people had access to their *brains,* a key and fundamental resource often overlooked in knowledge management discussions.

Elizabeth's Response

Let's first examine Elizabeth's response. Absent legal training, high school, or even primary school, Elizabeth could neither read nor understand the problem presented. The understanding and interpretive reasoning skills and knowledge of the area of constitutional law were simply not in her brain—and could not be expected to be. Significantly, without that tacit knowledge, Elizabeth was not able to consider the problem. This type of tacit knowledge is *tacit technical knowledge.*

An absence of tacit technical knowledge about the English language, legal reasoning, legal research, and legal terms prevented Elizabeth from identifying the issues in the problem. Even if she had been able to read the piece of paper and understand the issues, the wealth of knowledge in the volumes of books and the screens of waiting computers would have been inaccessible because she knew neither what they were nor how to use them. She did not have tacit knowledge about this wealth of external knowledge. This second type of tacit knowledge is knowledge about knowledge, and is called *tacit knowledge about sources.*

Henry's Response

Second was Henry. Henry's brain does have some tacit knowledge about law, and he has a degree of tacit technical knowledge about law from his studies to date, but he has very little tacit technical knowledge about constitutional law.

Unlike Elizabeth, Henry does know what a law library is. He knows that there exists an organized body of knowledge about constitutional law broader than what he has in his brain. He also knows that this broader knowledge is available to him in the library. Henry therefore has some tacit knowledge about legal resources.

Unfortunately, Henry's tacit knowledge about legal resources is quite limited: he incorrectly believes that *all* legal knowledge *ever* published is available conveniently from a computer screen on Westlaw.

So Henry brings to the problem a degree of tacit technical knowledge, and a degree of tacit knowledge about sources. Operating with these resources, Henry found the sections of the Constitution that contain the words he thought were relevant and identified recent authorities and precedents that mentioned those sections (by doing a text search). He identified a diverse range of primary materials—four hundred cases decided over the last fifty years, to print and to read.

Patrick's Response

Our third case study participant was Patrick, the constitutional law expert. Within Patrick's brain is highly developed tacit technical knowledge about constitutional law, and highly developed tacit knowledge about the existence, content, and method of accessing leading constitutional law materials.

With his tacit technical knowledge, Patrick was able to identify the issues in the problem using solely his brain.

With his tacit knowledge about sources, he knew the resources he would need to use to solve the problem, and he knew that by using the library catalog he would be able to locate those resources in the library. His tacit knowledge about sources also included how to update the material in the textbooks and loose-leaf volumes that he was going to use.

Patrick correctly analyzed the problem by applying both his tacit technical knowledge and his tacit knowledge about sources.

Jane's Response

Our last participant was Jane, who also correctly analyzed the problem. However, her approach was a little different from the others'.

Jane had much less tacit technical knowledge about constitutional law than did Patrick, but she had sufficient tacit technical knowledge to identify the problem as one involving constitutional law issues. In solving the problem, Jane leveraged knowledge about a person who could assist; she knew that

Aaron would be able to help her. Like Patrick's knowledge of the right textbook to find and use, Jane's knowledge in her brain about the existence of Aaron was a pointer to other knowledge (in this case Aaron), rather than knowledge about constitutional law. In other words, like Patrick, Jane was leveraging tacit knowledge, except that her tacit knowledge was knowledge about a person, rather than knowledge about a published information resource. The types, and qualities, of the knowledge within the brains of each of our case study participants are summarized in table 4.1.

What distinguished Patrick and Jane in their ability to correctly analyze the legal problem was what was in their brains, not the external resources that were available to them.

All of the participants in the case study had access to the same external legal knowledge—the same "managed" knowledge. All of the participants had access to the same digital and physical knowledge management resources, and yet the knowledge work output was quite different in each case.

In the same way that our case study participants had different qualities and types of knowledge in their brains, so too with the brains of lawyers at law firms. To improve the performance of those lawyers, and to maintain their quality and currency, activities need to be undertaken to:

- Identify the important tacit knowledge for lawyers to learn and know and to continually increase each lawyer's level of tacit technical knowledge
- Identify the important tacit knowledge about sources and people for lawyers to learn and know and to continually increase each lawyer's level of tacit knowledge about knowledge, and
- Subject to cost/benefit analysis, ensure the best external and internal knowledge sources are available

Table 4.1
Analysis of participants' knowledge

	Tacit technical knowledge about constitutional law	Tacit knowledge about published information	Tacit knowledge about knowledgeable people
Elizabeth, age 6	Nil	Nil	Nil
Henry, student	Limited	Limited	Nil
Patrick, constitutional lawyer	High	High	Not needed
Jane, mergers and acquisitions lawyer	Limited	Limited	High

How Are Organizational Learning and Knowledge Management Related?

The first two of these three activities listed above sound very much like Senge's organizational learning:

> Organizational learning is the process that enables an organization to adapt to change and move forward by acquiring new knowledge, skills or behaviors, and thereby transform itself. In successful learning organizations:
>
> - Knowledge is shared
> - The company culture supports learning
> - Employees are encouraged to think critically and to take risks with new ideas; and
> - All individuals are valued for their contribution to the organization.[1]

In a study in 2001 for the Conference Board titled *Beyond Knowledge Management: New Ways to Work and Learn*,[2] Brian Hackett explored the similarities between organizational learning and knowledge management. Hackett contrasted the two in a very useful table, reproduced as table 4.2, which indicates the high degree of overlap between the two concepts.

He quoted Hubert Saint-Onge, senior vice president, strategic capabilities, Clarica Life Insurance:

> The connection between learning and knowledge management is generally not well understood because the two fields have been kept separate from an organization structure point of view. Yet learning can best be served by a comprehensive knowledge strategy that includes learning modules as well as other sources of knowledge, including knowledge databases, documents, and policies. . . . Contrasting KM and OL may not be all that helpful. In fact, a knowledge-driven organization and a learning organization will ultimately end up looking very much alike. Is After Action Review a learning method or a KM approach? Are the criteria that knowledge management is online and learning is face-to-face?[3]

In many law firms, too, there is normally a separation in organizational structure terms of learning (or training) and knowledge management functions. In some law firms there is even further division, with separate structures and strategies for:

- Legal training (continuing legal education, continuing professional education
- Nonlegal training (i.e., soft skills training)
- Technology training

Table 4.2
Traditional knowledge management and organizational
learning characteristics

	Knowledge management	Organizational learning
Purpose and benefits	Knowledge creation and re-use To increase: • Productivity • Innovation • Customer connection • Speed	Manage complexity and change To increase • Robust decision making • Deal with complexity • Adaptation capability • Embed learning in teams, organization, systems
Tools	Groupware/connections Repositories of best-practice Personal knowledge sharing (tacit knowledge)	Systems thinking Mental models Aspiration
Processes	Create, clarify strategy Diagnose critical knowledge Knowledge gap analysis Create, store, connect knowledge	Link reflection and action Test assumptions Dialogue, inquiry Re-frame issues, conflicts Causal loop analysis
Typical applications	Wired Online	Face-to-face dialogue (AAR)

Source: Hackett, *Beyond Knowledge Management*, 18.

• Legal research training
• Financial system training
• Knowledge management

Hackett went on to quote Dan Moorhead, head of organizational learning at British Telecom: "Treating these concepts and activities separately may lead to the organizational fragmentation that some KM practitioners and many KM advocates are trying to overcome. To treat them together in the domain of complex, controversial, and conflict-laden business problems will require a KM tool kit and conceptual base far in advance of the current state of the art."[4]

I believe that in law firms, at least, these areas can be brought together by leaving the language of a "knowledge management strategy" behind and talking instead of a firm's knowledge strategy.

The difficulty with the language of knowledge management is that it presupposes that the knowledge exists, and that the management of that knowledge, rather than the creation, transfer, and use of that knowledge in the brains of knowledge workers, is the objective. To manage means to organize and to control. The very language of knowledge management therefore estranges the training, learning, and development community and excites the technology, information, and records management communities. This has naturally led to the bias in KM toward IT and toward systems.

However, first and foremost, lawyers do legal work by using their *brains*, not by using *systems*. The quality of a lawyer, the price she can command and the satisfaction of her clients, is related more to the knowledge, skills, and motivations inside her brain than to the externally sourced, or organizationally published, information resources and tools available to her. As Prusak says: "As access to information dramatically expands, so that people increasingly have access to almost all the information that they might need at any time and in any place (and, surprisingly, at low or no cost), the value of the cognitive skills still unreplicable by silicon becomes greater. Subsequently, knowledge components such as judgment, design, leadership, better decisions, persuasiveness, wit, innovation, aesthetics, and humor become more valuable than ever before."[5] We must always remember that lawyers do legal work by using their tacit technical knowledge, their tacit knowledge about knowledge, *and* by using the external resources available to them.

For knowledge management to focus merely on the creation and sourcing of external to brain resources for the sake of having those resources available and managed misses the point. Legal knowledge is effective only to the extent to which it is employed—to the extent to which it is used by lawyers in doing legal work. There is little point in having a vast repository of managed knowledge available to lawyers if they do not have the tacit technical knowledge to identify the legal issues in the first place, or the tacit knowledge about sources to know where to look and how to use the material that may be available to them.

For law firms, the objective of a knowledge strategy is to have and support quality lawyers (and their brains) in the profitable execution of legal work for clients.

What Types of Knowledge Do Lawyers Use?

Moving from our simple case study, which explored tacit technical knowledge and tacit knowledge about sources and people, we can now explore the more complex information and knowledge environment in which lawyers work.

The principles, however, will remain the same. A lawyer has a piece of knowledge work to do. In the doing of that knowledge work, the lawyer has the use of his or her brain, has the use of resources and tools external to his or

her brain, and produces a knowledge output, classically in the form of a document. In other words:

> Brain + external-to-brain resources + thinking/collaboration = document

The typical resources external to the brain are in the form of:

- Physical information resources (whether electronic or hard copy)
- Physical or electronic work tools (pens, papers, software)
- "Wetware" resources (people)

A breakdown of the components of the in-brain and out-of-brain resources provides the following categories, summarized in table 4.3.

The in-brain resources are:

- Tacit technical knowledge
- Tacit knowledge about sources
- Tacit knowledge about people
- Motivation
- Skills
- Values/beliefs

The out-of-brain resources are:

- Personally generated information and tools
- Externally generated information and tools
- Organizationally generated information and tools
- Work production tools and environment
- Internal and external people (discussion and collaboration)

Let's look at each of these resources in turn.

Table 4.3
Resources applied in the provision of legal advice

In the brain	Resources external to the brain	Thinking/ collaboration
Tacit technical knowledge	Personally generated information and tools	
Tacit knowledge about sources	Externally generated information and tools	Thinking/working time/ collaboration
Tacit knowledge about people	Organizationally generated information and tools	
Motivation	Work production tools and environment	
Skills Values/beliefs	Internal and external people (discussion)	

In-Brain Resources

Tacit Technical Knowledge

We introduced tacit technical and tacit knowledge about sources and people in the case study above.

Tacit technical knowledge is legal and commercial knowledge relevant to the lawyer's discipline. It is knowledge that can be recalled from the subconscious to the conscious mind. This knowledge creates the mental models that enable the lawyer to see the multiple implications from factual situations and to reason the application of principles to new situations. Tacit technical knowledge can come from a variety of sources, including books, journals, personal experience, studies, and discussions with others.

Tacit Knowledge about Sources

Tacit knowledge about sources is knowledge about sources of external, explicit knowledge—where it is found and how it is accessed. This is knowledge about legal and commercial information sources, case reports, textbooks, journals, databases, and the like.

In other words, it is knowledge about knowledge. The legal knowledge is not stored within the brain; what is stored in the brain is a pointer to an external source together with an understanding of that source and how to access it.

For example, the complete language of legislation is rarely committed to memory, but a lawyer will know that a statute exists that covers the situation and will know how to access that statute (by physical, electronic, or other means). The quality of the pointer can vary greatly—a lawyer can be aware of the existence of material but not know how to access it efficiently. The "existence" component of the pointer is known, but the "know-how" component of the pointer may be missing. Unless the "know-how" component is present, the lawyer will be significantly less effective in accessing the legal knowledge that is the subject of the pointer.

Tacit knowledge about sources can come from a variety of sources, although customarily it is acquired early in a lawyer's career and updated as new sources are published and new software or physical interfaces are employed by publishers. Tacit knowledge about sources is a key skill for lawyers in an era of increasing information overload, enabling efficient location and usage of quality, pertinent materials rather than the amassing of a wealth of "hits" on a search engine, which yields little actionable knowledge.

Tacit Knowledge about People

Tacit knowledge about people is knowledge about people and their skills, both within and outside the firm. Personal experience with people, unlike an entry in an expertise database, carries with it much broader and deeper knowledge

about them. For example, personal knowledge of a person will include their written and verbal skills, personality, working style, strengths, and weaknesses that enable better selection of the person for assistance. Further, when building teams, personal knowledge of people gives you the chance to build a team with regard to the way proposed members of a team would work together and complement each other's skills.

Tacit knowledge about people is generally acquired directly from experience, or referentially by the recommendation of others whose judgment is trusted. Such recommendations are generally a form of collaborative exchange, orally, by e-mail, or some other communications tool. Tacit knowledge about people often bypasses the formal organizational hierarchy and is knowledge about how things are actually done, and who actually has experience, rather than the way things are supposed to be done.

Of course, tacit knowledge about people is highly subjective, generally the result of personal perception in interpersonal interactions or of observed behaviors. This component of tacit knowledge grows broader and deeper with experience and probably grows the most of any of the tacit knowledges during the course of a lawyer's career.

Motivation, Skills, Beliefs, and Values

Knowledge alone is insufficient to produce outcomes. A lawyer may have excellent book knowledge and yet be a poor performer in practice. She may have excellent tacit technical knowledge, excellent tacit knowledge about sources, and excellent tacit knowledge of people, but nevertheless be a poor performer.

Other things must be present in the brains of lawyers for them to be effective professionals. The principal additional elements are motivation, skills, beliefs, and values. An effective knowledge strategy must pay keen attention to the current stock of this tacit knowledge within the firm's lawyers and include specific initiatives in relation to motivation and values.

Resources External to the Brain

There are four categories of resources external to the brain. Three relate to published information resources, and one relates to people.

Nonpeople Resources

Let's deal first with the three nonpeople resources. A lawyer has access to the following three categories of published information resources:

1. Resources created by the *lawyer*
2. Resources created by the *firm*
3. Resources created by *third parties* and sourced by the firm

Within each of these categories, there are then three subcategories:

- Primary sources
- Secondary sources
- Tools

A primary source is original source materials, including legislation, regulations, the text of judgments, and the text of opinions and advices prepared by the firm. A secondary source is information that explains, clarifies, interprets, defines, or assists in the location and understanding of primary source material. Effective use of secondary sources is critical for effective legal practice.

In undertaking research, an "on-point" secondary source is of much more value than a single primary source, as the secondary source provides an overview of the issue as well as analysis and identification of relevant legislation, cases, market practice, and journal articles. A researcher's preference for quality secondary materials when researching unknown issues should inform the way firms approach repositories of prior work product, which will be discussed later.

This preference for secondary source materials is beginning to be reflected in even the IT-based knowledge initiatives of law firms. For example, English firm Lovells introduced a new knowledge management tool for its litigators called Civil Procedure Rule (CPR), which is a secondary, rather than primary, style resource. Rather than creating a document database, which is a collection of primary materials like letters of advice, court documents, and the like, Lovells has provided a knowledge commentary anchored around practice notes which then link to other material. In other words, CPR is edited and prepared secondary material, rather than merely a knowledge landfill of primary documents:

> The litigation department's existing collection of practice notes, each of which correspond to a key step in the litigation process, form the base of the system and have to be updated regularly by experts in the field.
>
> The practice notes contain hyperlinks to various information sources, displayed as a "knowledge wheel." These include up-to-date text of the relevant Civil Procedure Rule (CPR) and practice direction; full text of the relevant practice note; a list of relevant Lovells standard forms, laserforms or electronic court forms; and a commentary and bulletin board section, on which fee earners can post queries or comments.
>
> The application also gives access to relevant information such as letters of advice, research notes, further commentary, precedents and contacts database, which is held in the main Total Access database.[6]

A *tool* is a work product that embeds relevant secondary and primary material into a resource intended for application in specific circumstances. A precedent or form for a transaction document is one example of a tool. Tools are objects created to enable more efficient delivery of an aspect of legal services, which is common to matters for several clients.

Table 4.4 provides examples of primary, secondary, and tool resources for each of the three categories of nonhuman resources accessed by lawyers in the course of providing legal services. As can be seen from the table, there is a graduation in value to lawyers, with tools being most valuable and primary sources having a lower value. This is not to say that primary materials are not important: they must be available, but their value in performing efficient knowledge work is lower than that of tools and secondary materials.

In order to convert intellectual endeavor into billable services, law firms need to have a range of nonknowledge tools, including document production tools and other support available for lawyers. Lawyers interact with this infrastructure in the preparation of advice and services to clients. The more productive and responsive this infrastructure, the better services can be provided to clients and the more enjoyable it is to practice law at the firm.

The work production tools and environment typically provided by a law firm to its lawyers would include the following:

Table 4.4
Analysis of key external to brain resources for lawyers

	Primary	Secondary	Tool
Value to lawyers	✫	✫✫	✫✫✫
Personally created/ purchased resources	Letters of advice Agreements Contacts database	Articles Textbooks Loose-leaf services	Template documents
Organizationally created resources	Database of letters of advice Database of agreements Billing records Library database Firm people database Contacts database	Training materials Articles Case notes Expertise database Policies Intranet Textbooks Loose-leaf services	Precedents and clauses Forms Research tools
Third-party organization created resources	Legislation Cases Regulations	Databases	Encyclopedia of forms and precedents Document assembly

- A work location, with sufficient space to arrange books and other resources used in the research and writing of the legal advice
- A computer of sufficient speed, capacity, and reliability to handle the common applications for handling e-mail collaboration, document access, and production
- Support for communications, including fairly advanced telephones (and, increasingly, videoconference facilities) on which the lawyer can easily create conference calls for collaboration with clients, with other lawyers, and with other third parties
- Access to secretarial and word processing support for volume document editing and production
- Dictaphone or digital dictation resources to enable efficient drafting of advice and correspondence
- A detailed style manual for typical documents created at the firm

People Resources: Internal and External People

The final nonbrain resource available to lawyers is other people—wetware.

The nature of the interactions with others within and outside the firm change during the course of the lawyer's career. In the early days of the lawyer's career, the consultation processes are generally with higher levels within the organization—seeking assistance, history, expertise, and advice from others to assist in areas unknown or unfamiliar to the lawyer. As the lawyer gains experience in the firm, the power imbalance in the discussion begins to change. Increasingly the lawyer will be consulting peer resources, or people of similar seniority within the firm. Finally, the lawyer will begin to consult peer and junior resources for assistance and technical consultation and collaboration.

A lawyer's ability to build these interpersonal relationships within the firm strongly correlates with success as a lawyer and ability to properly leverage the expertise of others in the provision of legal services to his clients.

While helpful analytically as a classification schema, the above analysis is at best a snapshot at a point in time—it does not represent or explain how the dynamic system of knowledge works and interacts at law firms. Within a law firm, knowledge is continually being created, accessed, dispersed, used, lost, and forgotten. To understand the knowledge ecology within law firms we will examine the usage and creation of knowledge by answering the following questions:

- What is the knowledge ecology involved in the performing of legal advice?
- What are the sources of knowledge that contribute to the in-brain knowledge of lawyers?
- How do lawyers contribute their in-brain or tacit knowledge to organizational resources?

What Is the Knowledge Ecology in the Performing of Legal Advice?

Figure 4.1 represents the process flow and knowledge sources involved in the provision of legal advice. The depictions are of the instructions, the lawyer's in-brain resources, the external resources available to the lawyer, and the provision of the output of the advice to the client.

From a bird's eye view, instructions are received, the lawyer applies both in-brain and external-to-brain resources, and the lawyer creates an output (the advice).

In the chart, the black squares represent a choice by the lawyer to apply personal effort in a process. The white squares represent an investment by the firm to apply organizational effort and investment to a process. Recall that knowledge management is the behaviors and processes by which a group of people increases personal and collective actionable knowledge to compete, increase performance, and decrease risk. In this context, the black squares represent personal effort required to increase personal and organizational actionable knowledge, and the white squares represent organizational effort and investment required to increase organizational actionable knowledge.

Let's look more closely at each of the numbered stages in the knowledge ecology.

1. Instructions

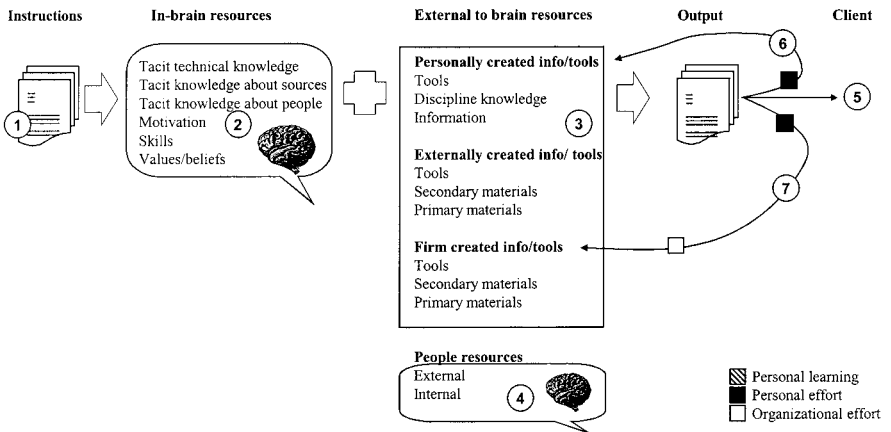The client instructs the lawyer. Instructions are received either in writing, or, more likely, orally.

Figure 4.1. The knowledge ecology of the provision of legal advice

2. The lawyer's brain

The principal resource to which the lawyer has access is her brain. Within her brain, and capable of recall from the subconscious to the conscious, is a range of knowledge assets, together with motivation, skills, beliefs, and values.

3. External-to-brain resources

The lawyer also has access to a range of materials external to her brain, including material:

- Collected by herself (personal explicit)
- Created by third parties but purchased by the firm (externally generated explicit)
- Created by her law firm (organizationally generated explicit)

4. Human resources

The lawyer also has access to human resources—people inside and outside the firm.

5. Legal product output

With her knowledge and that available to her outside her brain, the lawyer produces (with time and effort) a knowledge output in the form of a document of advice for the client. The document is transmitted to the client, by either post, courier, fax, or e-mail.

6. Personal learning loop

With personal effort, the lawyer may choose to deal with the letter of advice in some way for her own professional development. Depending upon the nature and importance of the content, she may file it (so that it remains a primary source), update a summary she maintains of the area of law to record her new learning (incorporating it into a secondary source), or generalize the document to create a tool (or template) for herself for use in expected similar circumstances. This learning loop depends entirely upon personal effort by the lawyer (behavior).

With personal effort, the lawyer may choose to submit the document for organizational consideration and processing as a piece of knowledge.

7. Organizational learning loop

With organizational effort and investment, the firm can deal with the newly created knowledge work output in a variety of ways. Like the lawyer dealing with the primary source knowledge object for the purposes of her personal knowledge store, the firm may merely file the document in a repository (so that it remains a primary source), update an organizational resource maintained in relation to the issue addressed in the letter of advice (incorporation

into a secondary source), or generalize the document to create a tool or template for other lawyers to use.

This learning loop depends upon:

- The lawyer investing personal effort to submit the work product output to an organizational process (behavior)
- The firm creating the processes and investing the resources to accept and process the submitted work product and to transmute that work product in the most profitable way for subsequent recall, reference, and reuse by lawyers (behaviors and processes)

While the ecology map in figure 4.1 examines the completion of a single letter of advice, in more complex matters an additional learning loop may occur at the end of the matter with an after-action review, a process analyzing what was supposed to happen, what did happen, and what can be learned from the process. The output of that after-action review is then subject to the learning loops in 6 and 7.

This map makes clear that legal services can be performed without the presence of the learning or knowledge loops in 6 and 7. These loops depend upon the existence of knowledge-oriented behaviors and processes, and it is the absence of, or variable quality of, these loops that plagues most law firm knowledge management initiatives.

The map also provides a way of understanding the typical (and limited) intervention points in relation to previous work product. Most firms' "knowledge management activities" are limited to point 7, cajoling lawyers to contribute completed work product and then processing that work product into an essentially primary-source-oriented repository of prior advice and materials. These are typically called opinions databases, infobanks, or brief banks. These are essentially document databases that are searched by lawyers. Often there is no editorial process beyond preparing an abstract (if at all), which makes the primary source a little easier to review, but does not add real value to the *body of knowledge* that the law firm knows about the underlying issue.

Curiously, most law firm initiatives positively discourage the assembly of personal-knowledge-oriented materials, and certainly do not provide any assistance as to how to efficiently and effectively address personal knowledge management. And yet every single lawyer in practice collects reference materials, documents that may be helpful later, articles of interest, and other marginalia throughout their careers. Often the best lawyers have the best personal collections. As will be explored later, rather than discourage these activities and lament that lawyers still maintain their personal collections, an objective of effective law firm knowledge strategy is to assist lawyers with loop 6 in an environment where they understand and assist with loop 7.
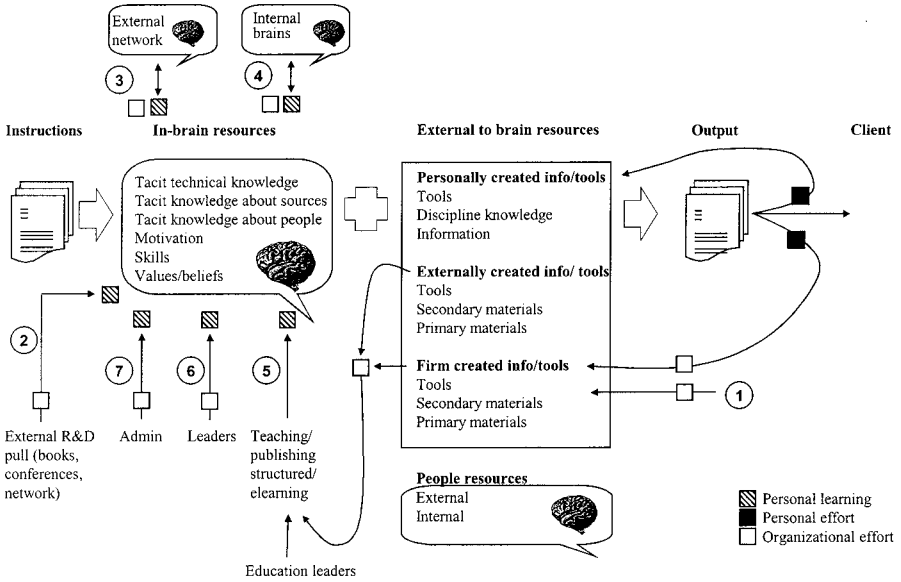
Figure 4.2. Sources of in-brain knowledge of lawyers

What Are the Sources of Knowledge That Contribute to the In-Brain Knowledge of Lawyers?

The second question to consider is the sources of the flows of knowledge into the brains of lawyers. In figure 4.2, the previous map is provided as a base, and I have added the knowledge flows into the brains of lawyers.

Each of the key points is highlighted below.

1. Firm Investment in New Knowledge and Tools

Firms may make specific organizational investment in generating explicit knowledge tools and secondary materials for use by their lawyers. While approached differently among firms in the United States, United Kingdom, and Australia, this is investment in knowledge and tools that do not result from a by-product of the client service process, but rather generate original content, resources, and tools.

For example, in the United Kingdom the lawyers responsible for this material would be called professional support lawyers. In Australia, this investment is often in dedicated precedents lawyers, and specific nonbillable time of leading lawyers, whereas in the United States there is often no specific head count for the purpose—the investment is in nonbillable time of a range of lawyers (if at all).

In the United Kingdom, professional support lawyers have an established and wide role, as indicated in this typical advertisement for a professional support lawyer position:

> A leading international U.K.-based law firm is looking to recruit a further two first-class finance lawyers to join the existing team of Professional Support Lawyers (PSLs) in their finance practice. Candidate will need to have four years' experience in a transactional finance practice. Exposure to securities banking will be highly regarded. Work will include developing practice and policy with regard to key points of law; drafting and maintaining the firm's high-quality templates reflecting market practices across a full range of product areas; carrying out research for the firm's Opinions Committee; collecting, analyzing, and preparing know-how and practice notes; answering a wide range of inquiries from transactional lawyers based in the London office and overseas; assisting with on-screen services that contain know-how and information resources; assisting with the educational program for finance lawyers; and developing a range of on-line products for lawyers and clients and preparing e-bulletins. Remuneration depends on experience.

In Australia, as indicated in the typical advertisement below, the roles are generally narrower in scope, focusing on drafting precedents or template documents:

> Banking and Finance Precedents Lawyer
>
> Our national firm client is seeking to employ a banking and finance precedents lawyer. Working with Sydney Partners and Precedent Managers across Australia, this is a unique opportunity to use your five to six years' general banking and finance experience in a unique, interesting, and challenging manner. This is a full-time role requiring strong drafting skills and an organisational approach.

Note that in figure 4.2, there are markers around the brain of the lawyer to indicate the personal effort required of lawyers to learn. Learning and the grasping of concepts so they can be subsequently recalled from the subconscious to conscious brain takes effort—*personal* effort and commitment. A firm cannot learn for its lawyers. A firm cannot make its lawyers learn. Lawyers need to make a personal and meaningful commitment in order to learn anything.

In an environment increasingly characterized by information overload, lawyers are confronted with a multiplicity of competing sources for attention. The major sources are as follows.

2. External R&D Pull

Lawyers encounter a range of information and knowledge sources at their own choice—that is, they pull information from the external environment

rather than information and knowledge being pushed to them. These sources include newspaper and journal subscriptions, conferences, television, books, Internet sites, and mailing lists. Importantly, the very act of reading, or attending a conference, will not of itself make a lasting impression within the brain of the lawyer. It takes personal effort from the lawyer to determine what information is worthy of being incorporated into his body of knowledge, and the degree of attention it merits.

3. External Network of Clients

Lawyers obtain knowledge and information orally through their external personal and professional networks. These are rich sources of direct experience, often serving to create a more multidimensional understanding of issues beyond that acquired through reading.

As these exchanges are often experienced face to face, a much deeper and richer communications experience results—one that is more suitable for recall, as in face-to-face communications meaning is conveyed by the words used *and* through gestures, pace, tone, body language, emotions, and so on.

4. Internal Informal Discussion with Others

Lawyers also obtain knowledge from informal conversations among themselves at the firm. The typical "What are you working on?" or "Did you hear that John is working on . . . ," or "Have you heard about the new amendment yet?" Often called water-cooler conversation, this is tacit to tacit knowledge transfer that deepens interpersonal connections and significantly builds the personal knowledge of both participants in the conversation.

With efficient space planning in the modern law office, tea and coffee rooms are often so small, sadly, as to permit only one person to comfortably make her cup of coffee and then leave the area as soon as possible so as not to inconvenience fellow colleagues. This "efficiency" in space planning has caused significant damage to informal knowledge sharing, which is one of the most effective ways for knowledge to be transferred.

5. Organizational Training Materials

The next source is firm-created education and training materials. As indicated in the map, the ideal process is that the educational materials are packaged and distilled from a number of sources for efficient identification and review by lawyers; however, this is rarely the case in reality. Often lawyers are barraged with e-mail from the library, e-mail from the training department, e-mail from leading lawyers, e-mail and information from professional support or precedent lawyers, e-mail from those responsible for continuing legal education . . . the list goes on, and it seems to increase every day.

What the map suggests is that the legal information that the organization wants lawyers to know can originate in a variety of sources, but it should be distilled and packaged to maximize impact, understandability, and accessibility by lawyers. For example, new technical or skill information can originate from a variety of sources, including:

- The latest work in organizationally generated tools or secondary materials produced by the internal team
- The recently completed work product that has been transmuted into the organizational resources
- The latest information sourced from third parties—that is, the latest cases, new textbooks added to the library, new or changed information services which are now available to lawyers, even down to the day's news from the newspapers, press releases, and legislative agendas
- New training courses or materials the organization has created to assist the development and skills of lawyers

Controlling this barrage and packaging for maximum impact and understandability is a cheap and easily implemented initiative that can make a significant difference to the development of the appropriate in-brain resources and reduce information overload. While this type of information remains an unstructured torrent, much of it will be ignored and missed by lawyers.

6. Strategy and Other Information from the Firm's Leaders

Another source of information confronting lawyers is that of communications from the firm's management and leaders. This information may be in relation to the big-picture mission and values, or it may concern narrower impacts, such as how the firm is progressing operationally with its major initiatives.

Much of this information will relate to changes management is trying to achieve within the firm, which in turn will depend upon changes in the behaviors and processes of lawyers. Vital to achieving these changes in behaviors and processes in lawyers is that they understand and internalize in some way the strategy, objectives, processes, and behaviors necessary to achieve the change.

Like the blizzard of information in relation to changes and updates to the law, this information is often communicated in different ways from different parts of the organization in an uncoordinated way. Further, there is often not an organizational language that indicates the different degree of significance to be placed on the different communications. Firms should consider a hierarchy in the naming and distribution of their communications so lawyers can quickly examine and ascribe priorities for reading and review of this information.

7. Information from the Firm's Administration Groups

The final source of information is operational and other information from the firm's support functions, generally in the form of e-mail.

There has been an explosion of this traffic over the last few years. Ten years ago, sending a physical memorandum to the entire firm had an obvious and visual cost—the cost and effort of photocopying and distributing the message. This cost constrained the volume of communications—the cost of creating and sending the message was often too high for the nature of the message that would have been "nice" to send to everyone, but not worth the effort. In other words, physical distribution was not justifiable based on an assessment of the costs of transmission.

With e-mail, the cost of transmission of the message became zero; hence the dramatic increase in the volume of "all-firm" or broadcast messages sent to groups of people. A very small quantity of this information is required by lawyers to be "known" long term; most is operational in nature—requiring action, rather than making an enduring contribution to the competence and effectiveness of the lawyer. The significant cost generated by this explosion in e-mail traffic, however, is that lawyers are confronted with significantly more content, much of which is relatively poorly structured and written, that must be dealt with in their inboxes. The conscientious lawyer will wade through all of the e-mail traffic, wasting a lot of time. The pragmatic lawyer will often delete much of the traffic unread. The sender will presume that it has been read and understood, and will act accordingly, leading to confusion and dissatisfaction in the dealings of the pragmatic lawyer with the administrative function.

Like most things in life, this is a question of balance. There are messages that the administration of the firm will need to communicate to lawyers, which lawyers need to read, take the time to understand, and where appropriate, learn. This reading and learning takes the personal effort and time of the lawyer and is one of the responsibilities of being a lawyer at the firm.

With these messages, the question becomes, "Is distribution of the message justifiable from the perspective of the cost of *reception,* rather than the cost of communication, and what is the best way to communicate it?"

Through all of these sources, lawyers encounter a wide range of information. When confronted with this information, lawyers do one of the following things to increase their *personal actionable knowledge*:

- Ignore it entirely; not even read it
- Encounter it and throw it away or forget it
- Encounter it, reflect on it, distill the points worth remembering, and invest effort to remember them (tacit technical)
- Encounter it and file it (or commit to writing, if oral) in a primary source collection the lawyer maintains (tacit knowledge about sources that it exists)

- Read it, reflect on it, and build the information into a secondary source that the lawyer maintains (tacit knowledge about sources that it has been reflected in the secondary source)
- Read it, reflect on it, and invest effort to incorporate the knowledge into a personal tool (tacit knowledge about sources that the tool exists and what it is used for)

One objective of knowledge strategy of law firms is to assist lawyers to make these decisions in relation to the great volume of information with which they are presented.

How Do Lawyers Contribute Their In-Brain Resources or Tacit Knowledge to Organizational Resources?

Remembering that knowledge management is the behaviors and processes by which a group of lawyers maintains and increases their personal and collective actionable knowledge to compete, increase performance, or decrease risk, what behaviors and processes are available to the lawyer to increase *collective,* rather than *personal* actionable knowledge?

In our final map in figure 4.3 we build upon the first two knowledge ecology maps to introduce the points at which the lawyer may provide tacit
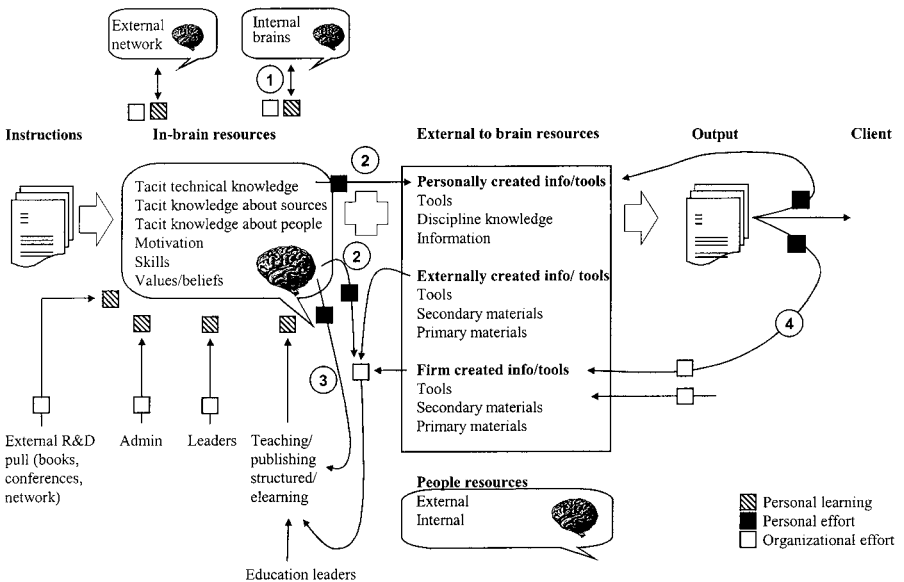
Figure 4.3. How lawyers contribute their in-brain resources to organizational resources

knowledge or resources encountered in order to increase collective, rather than personal, actionable knowledge. Lawyers can increase the collective actionable knowledge of the firm in two principal ways:

- By providing their knowledge directly to other lawyers (as we will explore in points 1 and 3 below)
- By providing their knowledge to an organizational initiative, which will then incorporate and disperse the knowledge among lawyers as appropriate (as we will explore in point 2 below)

1. Informal Discussions or Collaborations with Others

We have already noted that lawyers can receive valuable knowledge and information in informal, ad hoc conversations with other lawyers. As well as receiving information in this manner, lawyers can use these opportunities to transfer knowledge they have encountered that they consider will be of value to that other person.

Importantly, this goes beyond "knowledge sharing," which is essentially a passive culture. Rarely does someone share something without being asked to share it—knowledge sharing is a preparedness to share, rather than a commitment to identify knowledge that will be of value if transferred, and finding a way to transfer or communicate that knowledge.

When it comes to sharing, few of us have a more highly developed mental model than sharing our toys as children. When a child visited, and brought no toys, we were asked to share ours so they could play. When the invader took a prized toy of ours, we were told by our parents to share and stop fighting over the toy with the other child. Sharing was something different to being generous. Sharing was either about suppressing feelings of loss of ownership when someone else used a toy of ours, or the response of giving (sharing) *when asked to do so.*

In either case, sharing was not something that required positive action from us; it was either a suppressive response or a response to a request from another to share some of our toys or possessions. When it comes to knowledge, *knowledge sharing* is similarly a rather passive perspective.

Like the example of the sharing a toy from our childhood, knowledge sharing has the twin aspects of a suppressive response or a response to a request from another. A colleague of yours has a habit of visiting your office and borrowing (and not returning) a key textbook you have purchased. You share your book by not chaining it to your bookcase (even though sometimes you wish you had). Alternatively, a colleague calls and asks whether you know anything about the issue on which she is working. You are prepared to share your knowledge, because you like her, and there is reciprocity in that she has shared her knowledge before with you.

Unlike sharing, in order to increase collective actionable knowledge we need positive acts: positive acts to identify and communicate that component

of our knowledge and information that we encounter which is likely to be of value to contribute or transfer directly to others in conversation or physical distribution. For this reason this process is marked with a black square in the map to denote personal effort. This activity will simply not happen without personal effort, commitment, investment, and genuine care and concern for others.

This personal effort to transfer knowledge is called *knowledge projection* to distinguish it from passive knowledge sharing.

2. Structured Contributions to Personal Resources, or Organizationally Created Resources

Lawyers can also project knowledge to build collective actionable knowledge indirectly.

Here, lawyers communicate the knowledge they encounter to assist the group to increase its actionable knowledge by contributing that knowledge to a special group that is charged with distilling, filtering, packaging, producing, and dispersing this type of knowledge within the firm. The objective of this special group is to increase knowledge velocity and flows within the firm in a way that avoids an unmanageable torrent of information. Knowledge projection is wasteful and counterproductive if it results in unmanageable information overload.

These special people are a clearinghouse for knowledge:

- Making connections between people
- Forwarding the information to one or more people
- Urgently communicating the information to all of the firm, or to one or more lawyers
- Using that knowledge to incorporate into organizational primary materials, secondary materials
- Incorporating the material into new or existing tools
- Ignoring the information altogether

3. Internal Formal Discussion with Others

The final way lawyers transfer the knowledge that they encounter with others is through regular, or formal, forums and meetings. These may be arranged training sessions on topics of significance, or they may be regular meetings of practice groups or other communities of interest. Again, this area of activity is associated with a black square—it takes personal effort by the lawyer to contribute to the discussion and to increase the understanding of others.

The lawyer does not *have* to contribute his knowledge and may instead choose a different model of participation—paying attention to the forum only when information or knowledge that is new or interesting to him is presented. In other words, a lawyer has a choice on whether to be solely self-

focused in his knowledge development in these environments or take responsibility for personal and collective knowledge development. Taking the step to being responsible for collective knowledge development means the lawyer actively considers what information, knowledge, or experiences may be provided or discussed with the group to increase the group's understanding, not just his own.

Again, this activity is beyond knowledge sharing; this is lawyers' taking responsibility for knowledge dispersal and communication within the group, not waiting to be asked "What do you think?" but actively considering how they can *contribute* to the various forms of tacit knowledge of their colleagues. This is the formal meeting dimension of knowledge projection.

We have now reached the end of part I.

What have we learned? What is the knowledge that you should add to your tacit knowledge about knowledge management (requiring personal effort on your part)? We have learned that:

- Knowledge management does not equal IT, or IT solutions.
- Knowledge management is the behaviors and processes by which a group of people maintains and increases their personal and collective actionable knowledge to compete, increase performance, and decrease risk.
- There is no point in having knowledge management for the sake of having knowledge management—there must be an organizational performance payoff to justify the effort and the investment.
- The principal measure of law firm profit is profit per equity partner, or PPEP. PPEP is calculated by multiplying four drivers together: average realized rate, margin, utilization, and leverage.
- Law firm knowledge management initiatives requiring funding can be considered in three categories, "must-haves," "should-haves," and "investment decisions."
- In considering investment choices, an investment may be made to sustain quality, to attract or retain lawyers, or to attract or retain clients.
- In performing knowledge work, lawyers use a range of in-brain and external-to-brain resources. In performing legal work, the in-brain resources are more critical, are more often applied, and add more value than the external-to-brain resources.
- There is a knowledge ecology within law firms, resulting from the outputs of legal work, information, and knowledge being encountered by lawyers, and from the organizational investment to create knowledge (primary materials, secondary materials, and tools).
- To function, law firm knowledge ecology involves investment by law firms, personal effort and behaviors by lawyers, and personal learning by lawyers. Without these things and the required knowledge loops and learning, both the in-brain and out-of-brain resources are compromised.

- The identification and communication by lawyers of knowledge that would increase the firm's collective actionable knowledge is an activity beyond knowledge sharing and is better characterized as knowledge projection.

With this understanding of knowledge management, the economics of law firms, and the components of law firm knowledge ecology, we will explore in part II a methodology to create and implement effective knowledge strategy within law firms.

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Plotting and Sailing a Course

Creating and Implementing Law Firm Knowledge Strategy

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5

What *Is* a Law Firm Knowledge Strategy? How Do You Develop One?

What business strategy is all about; what distinguishes it from
all other kinds of business planning—is, in a word, competitive
advantage. Without competitors there would be no need for
strategy, for the sole purpose of strategic planning is to enable the
company to gain, as effectively as possible, a sustainable edge over
its competitors.
—Keniche Ohnae

Law firm knowledge management is the behaviors and processes by which
a group of lawyers increases and maintains their personal, and collective,
actionable knowledge to compete, to increase performance, and to decrease
risk. By extension, a knowledge strategy is the plan, or road map, for those
behaviors and processes.

Why should a law firm have a knowledge strategy? Is it necessary to have
one? Firms should have an explicit knowledge strategy in order to:

- Maintain and increase profits
- Get better value from expenditures on training and development
- Better compete in the market for talent, to attract and retain the best
  lawyers
- Better compete in the market for clients, to attract and retain the best
  clients

Actually, every law firm *already has* a knowledge strategy, although the strat-
egy is rarely explicit. Every law firm:

- Hires lawyers for particular attributes
- Provides those lawyers with certain training and development opportu-
  nities
- Provides those lawyers with access to external-to-brain resources in
  order to do their work in a library, or conveniently at their desks, in
  physical or electronic forms
- Has a set of document templates, forms, or precedents

- Has an organizational culture and norms in relation to knowledge creation and knowledge projection

True it is that the knowledge strategy activities within law firms are often not coordinated, measured, or benchmarked—but they are there nevertheless. Firms will hold some form of practice group meetings and run continuous legal education (CLE or CPE) programs. If you add together the annual investment in recruiting, training, knowledge-related technology, content development resources, and knowledge leadership and infrastructure, you will see that you are already spending a significant sum of money in following your *implicit* knowledge strategy.

The advantage for firms with implicit knowledge strategies of creating a holistic knowledge strategy is better, more motivated lawyers; better clients; better return on investment from knowledge-related activities; and a better, more profitable firm.

Those few firms that already have an explicit, holistic, and business-focused knowledge strategy (and these are rare indeed), now have an opportunity to review that program and take it to the next level. Many early adopter knowledge management initiatives within law and consulting firms have focused on the "repository of primary material" approach to knowledge strategy—capturing and indexing documents into a repository in Lotus Notes or on an intranet. Databases begat more databases, until databases were created to index the databases. Is this really knowledge? Does this represent value for money? Does this represent a profit-increasing initiative?

Peter Lawton, a PricewaterhouseCoopers principal consultant, has a wonderful expression for these first-generation knowledge repositories—he calls them "knowledge landfills."[1] You can almost smell the aroma of stale and unused knowledge in your nostrils.

An effective knowledge strategy addresses a range of issues in the law firm, crossing practice, management, and support function boundaries and silos. Let's consider how a knowledge strategy might be expressed by considering the firm below:

We recruit for academic excellence and train our lawyers intensively for the first two years. Further development is experiential by working on matters, and other initiatives of personal choice and investigation. In performance appraisals, learning is specifically discussed only in the context of correcting aberrant behaviors or poor performance.

We provide our lawyers a base collection of forms and precedents and invest an amount each year in an effort to maintain them. Little feedback is received from practicing lawyers in relation to improving our precedents and forms.

We hold fortnightly practice group meetings of various qualities. These can tend to be poorly attended by our partners and, though well-intentioned, can be poorly focused.

Our culture is to work in teams and to support each other, and we do this very well.

We measure and reward billable hours and set no targets, and do not track nonbillable time spent on knowledge creation or transference. We do not measure, reward, or assess performance in knowledge building activities.

Our clients expect us to learn as a firm from previous transactions and advice, and other than in special circumstances, to make that knowledge available to all of our lawyers for the benefit of our clients. In tenders, we say that we do this. Our actual record for doing so is a little weak.

We believe that knowledge management is about the right technology applied to make lawyers more efficient by making explicit knowledge available to them.

We have several databases that are used, and several knowledge landfills that have fallen into disuse, generally when the person who sponsored and created them moved on or lost enthusiasm.

We seem to repeat information in a variety of different systems that do not seem to integrate, particularly information in relation to our people, our clients, and our contacts.

Our knowledge initiative is led by a senior partner who is allowed to spend one day per week on knowledge and given billing relief for that day. The knowledge partner is supported by three professional support lawyers. No other partner or lawyer is allowed to spend time which is otherwise billable time on knowledge initiatives.

Pause for a moment and reflect on your firm's knowledge strategy. How close is your knowledge strategy to that of the fictional firm described above? How do you address the behaviors and processes outlined above? If you were to describe your firm's current knowledge strategy in writing, how would it look? If your firm has an explicit knowledge strategy, to what extent does the reality represent the espoused objectives and operations?

To help you in this exercise, consider the following questions:

- What are the attributes that your firm looks for in recruiting processes?
- What training programs are available within the firm, and how seriously are they regarded and attended? What is the level of successful knowledge acquired in these sessions, as against mere attendance? How difficult and challenging is the training—is there a component of the training that requires successfully demonstrating the skill acquired in a way that is assessed?
- How does the firm approach keeping its lawyers current and up-to-date on the law? Is each lawyer left to their own devices as a respect for their professionalism?

- How good are your firm's template documents or precedents? Do you have the "must-have" legal precedents and clauses to compete? Do other competing firms have better "must-have" documents?
- How effective are your practice group meetings and continuing legal education initiatives?
- How easy is it to locate and use internally generated knowledge resources?
- What are the contribution and usage rates in relation to internally generated knowledge resources? What *difference* do these resources make in the way lawyers *actually* practice each day in providing service to clients?
- How do potential investments in knowledge initiatives get evaluated within the firm—what is the criteria for investment?
- How much do management and practice leaders understand about law firm profitability and the impact of knowledge strategy?
- Do you have any knowledge landfills? How many? Do you know where they all are? Have you stopped creating landfills yet?
- Has the pleasing hum of servers and pipes, and the exhortations of software conferences and vendors, distracted your firm from focusing on how lawyers work, and how firm performance can be improved by knowledge strategy?
- What total annual investment are you making in knowledge-related activities?
- How is personal and collective knowledge creation incorporated into reward systems, performance appraisals, and the evaluation processes for admission to partnership?
- What is the knowledge orientation of the last ten people who were admitted as partners of the firm? Are they contributors to collective actionable knowledge, or knowledge strangers? Was knowledge orientation even a criteria considered during the partner assessment process?

Take time, right now, to reflect critically and honestly on your firm's existing knowledge strategy, and write it down on paper. Please do not continue with this chapter without doing this exercise—and be completely honest in your assessment.

Now that you have completed your honest assessment, how comfortable would your managing partner be with your characterization? Would it represent the kind of firm that provides outstanding service, the kind of firm that attracts and retains outstanding lawyers and clients, a firm that is more profitable than its peers? How comfortable would you be in being *totally* honest with your clients and in your recruiting processes about the realities of your knowledge strategy?

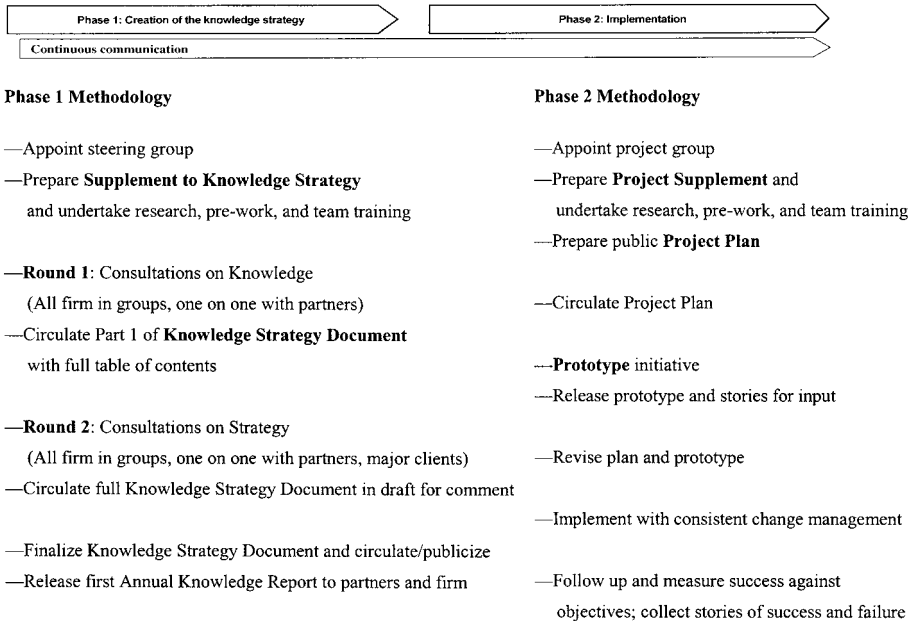My guess is that there may be room to improve.

So what does a knowledge strategy for a law firm look like? What is step one in the process? What is step two? Where do you start? How do you go beyond the theory to practical application?

This chapter gives an overview of a two-stage methodology for the *creation* and *implementation* of an effective knowledge strategy within a law firm. As we will explore, the creation stage of the methodology is as important as, and may take longer than, the implementation stage. In subsequent chapters, we will explore the processes involved in the methodology, and I will make recommendations for you to consider in relation to particular initiatives, behaviors, and processes to address the personal, interpersonal, and impersonal dimensions of law firm knowledge strategy.

Methodology for Creating and Implementing Law Firm Knowledge Strategy

As figure 5.1 indicates, there are two distinct phases to the methodology. The first phase is the *creation* of the knowledge strategy and the second phase is the *implementation* of the strategy. Figure 5.1 outlines the principal activities and outputs within each phase.

Where most projects fail is in the first phase—creating the strategy—and that is what this chapter addresses.

Phase 1: Creation of the knowledge strategy	Phase 2: Implementation

Continuous communication

Phase 1 Methodology	**Phase 2 Methodology**
—Appoint steering group	—Appoint project group
—Prepare **Supplement to Knowledge Strategy** and undertake research, pre-work, and team training	—Prepare **Project Supplement** and undertake research, pre-work, and team training
	—Prepare public **Project Plan**
—**Round 1**: Consultations on Knowledge (All firm in groups, one on one with partners)	—Circulate Project Plan
—Circulate Part 1 of **Knowledge Strategy Document** with full table of contents	—**Prototype** initiative
	—Release prototype and stories for input
—**Round 2**: Consultations on Strategy (All firm in groups, one on one with partners, major clients)	—Revise plan and prototype
—Circulate full Knowledge Strategy Document in draft for comment	
	—Implement with consistent change management
—Finalize Knowledge Strategy Document and circulate/publicize	
—Release first Annual Knowledge Report to partners and firm	—Follow up and measure success against objectives; collect stories of success and failure

Figure 5.1. The methodology to create and implement effective law firm knowledge strategy

Phase 1: Creation of the Knowledge Strategy

As indicated throughout the methodology chart in figure 5.1, there are several key documentary outputs of phase 1 of the methodology. (I am an ex-lawyer, so of course there will be documents!) There are three key documents, including the knowledge strategy itself, the supplement to the knowledge strategy, and the knowledge strategy annual report.

The *knowledge strategy* is a public document within the firm that educates about the concepts of knowledge and articulates the knowledge strategy for the firm. It is an important document that establishes the framework, the strategy, the language, and the concepts that will underpin all subsequent activity.

The *supplement to the knowledge strategy* is a confidential working document for those involved in leading the initiative and those managing individual knowledge projects. This document contains additional research, frank assessments, and the action plan for the management, and leverage, of the strategy creation phase.

The *knowledge annual report* is the first issue of what will be an annual report to the firm (with a variant for partners with financial information) that repackages and summarizes the knowledge strategy, establishes a stock take on the current position, and outlines priorities for the year ahead.

Table 5.1 provides a summary of the key documents produced during the strategy creation phase.

The major tasks in this phase are:

1. *Leadership.* Appoint a steering group.
2. *Research and preparation.* Prepare the supplement to the knowledge strategy and undertake pre-work, research, and team training.
3. *First-round consultations.* Undertake the first round of firmwide consultations about the meaning of knowledge and the processes that should be followed in the initiative.
4. *First-draft circulation.* Circulate for comment the draft knowledge strategy document with the first part completed, containing the table of contents for the whole knowledge strategy document.
5. *Second-round consultations.* Undertake the second round of firmwide consultations, this time about the knowledge strategy.
6. *Second-draft circulation.* Circulate the complete draft knowledge strategy document for comment.
7. *Final strategy distribution.* Finalize and release the knowledge strategy document.
8. *Annual report.* Prepare and release the first knowledge annual report.

Each of these is discussed below.

Table 5.1
Key documents produced during the strategy creation phase

	Content	Audience
Knowledge strategy	The firm's knowledge framework and strategy, including the language and concepts that will underpin all subsequent activity.	Firm
Supplement to the knowledge strategy	Confidential research, frank assessments, and the action plan for the management, and leverage of, the strategy creation phase.	Knowledge steering committee
Knowledge annual report	Reports progress during the year against strategic, operational and financial milestones in the implementation of the strategy. Outlines priorities for the year ahead.	Firm

Step 1: Leadership

The first task is to appoint a steering committee to oversee and facilitate the creation of the knowledge strategy (and the three documentary outputs), and to subsequently oversee and facilitate the implementation phase.

This group is *not* responsible for doing the planning or creating the strategy by themselves. Its members are responsible for *facilitating* a process, assisting the firm to arrive at *its* knowledge strategy. In naming this group, you may choose to use language that reinforces this role. For example, if it is named the "knowledge strategy group" the balance of the firm will immediately feel like strangers to the strategy process, as responsibility for strategy formulation has been dedicated to the steering group.

Names you might consider include:

- Knowledge strategy facilitation group
- Legal excellence committee
- Knowledge representatives group
- Knowledge board

This group should operate along the same lines as the board of a public company, or the board of your firm. The group should have a chairman who is not the CEO of the knowledge initiative—in other words, the partner who is responsible for knowledge in the firm should not be the chairman of the group.

Members of this group, which should be kept to a manageable size of no more than ten, should include:

- The partner responsible for the knowledge initiative (the "knowledge partner")
- Several partners and lawyers from diverse offices and practice groups (you may choose to select, or have elected, a balance between those presently involved in knowledge initiatives in the firm—who will have some experience—and those who have no organizational investment in the current processes and behaviors, keeping in mind that the balance should be in favor of those not involved in the current organizational processes)
- A member of the firm's board (who would make an ideal chairman)
- One person from finance, but not necessarily the head of finance, to dilute somewhat the positional power of the contribution from the finance group
- One person representing the internal functions of human resources, training, secretarial and support staff, and technology (to dilute the importance of IT as the driver of strategy)
- One person from the library/existing knowledge management support structures
- A technical resource from the technology group in a consulting capacity to counsel about what is possible in relation to the firm's existing platforms and infrastructure and what is possible generally (this is likely to be a mid-ranking IT specialist who has previously demonstrated strategic thinking and an aptitude for leadership.)
- An outstanding board secretary for the purpose of agenda and minute preparation

The administration and processes of this committee should be as structured and professional as, or more structured and more professional than, the processes and behaviors observed by your board. Indeed, modeling the processes and behaviors for this group on those observed by your firm's board will signal both the importance of the initiative and the respect of those involved in the initiative for the traditions and processes observed by the firm. Agenda and materials should be circulated before meetings, with a requirement that materials are to be read before the meeting. The knowledge partner and the chairman should settle the agenda.

Of course, if it is possible to raise the standards for the group above the standard of your firm's board, particularly in relation to information and

knowledge management of the group, then you should do so. You should yourselves be an example of knowledge management in action.

Operational processes for the committee should also mirror the processes observed at board level—that is:

- One vote per person on the group
- All on the group are responsible and accountable for the decisions and operations of the group
- All are equally expected and permitted to make contributions
- All have a responsibility to syndicate the work of the group among their constituencies—they are representatives of a team

The purpose of this committee is to:

- Review and discuss the recommendations provided by the knowledge partner for the strategy creation phase, and to agree the process to be followed
- Review and discuss the outputs of the first-round consultation processes about knowledge, and the research and other materials prepared in the supplement to the knowledge strategy
- Settle the knowledge strategy document for circulation of the first draft to all of the firm following the first-round consultations
- Review and discuss the outputs of the second round of consultation in relation to strategy
- Settle the balance of the draft knowledge strategy document for circulation first to partners, then to associates, and then to all lawyers and support staff
- Review comments received on the draft knowledge strategy document, finalize the document, and agree on a recommendation to the board in relation to strategy, expenditure, and implementation

In other words, this is a decision-making and governance body to which the knowledge partner is accountable.

Step 2: Research and Preparation

As outlined above, one of the key documents produced in the knowledge strategy creation process is the *supplement* to the knowledge strategy. An indicative table of contents for this document, which outlines the work to be done, is set out in figure 5.2.

This supplement to the knowledge strategy is not for wide circulation, but it is a major part of the knowledge strategy *for* the knowledge strategy.

The supplement makes clear what tacit technical knowledge about knowledge management is expected to be in the brains of the members of the committee. It outlines the knowledge about knowledge management that it is

1.	**Frank stock takes**		**4.**	**Involving the champions**
1.1	Our firm's culture		4.1	Identification of champions
1.2	The knowledge-oriented culture we want to be		4.2	Strategy for involvement
1.3	How we will achieve the firm's culture in everything we do to achieve the cultural shift		4.3	Allocation of liaisons
1.4	Our lawyer's traits		**5.**	**Managing the recalcitrants**
1.5	Lawyer behaviors and attitudes we want to institutionalize		5.1	Identification of recalcitrants
			5.2	Strategy for management
1.6	How we will leverage the traits of lawyers in everything we do to achieve the behavioral shift		5.3	Strategy for involvement
			5.4	Allocation of liaisons
1.7	Detailed history (including financial analysis) of knowledge strategy at the firm (at least 10 years' history)		**6.**	**Warehouse of scripts, stories**
			6.1	Characteristics and structure of a good story
1.8	How we will leverage the history in everything we do		6.2	KM in a nutshell
			6.3	What we are doing
2.	**Values, beliefs, and tacit knowledge**		6.4	Stories of the pain
2.1	Values, beliefs, and behaviors that will guide the conduct of the committee, and its approach to knowledge strategy		6.5	Stories of the joy
			6.6	CEO scripts
			6.7	Practice leader scripts
2.2	The checklist against which we measure all we do in progressing knowledge strategy		**7.**	**Anecdotes, praise, and buzz**
			7.1	Success
2.3	Minimum standards for members of the steering committee on tacit technical and tacit meta-knowledge about knowledge management		7.2	Failures (learnings) to be acknowledged, and how they are addressed
2.4	Mandatory reading for members of the steering committee (books, articles, etc.)		**8.**	**Project management**
			8.1	Template of public project management document
2.5	Minimum skills expected of those involved in change processes		8.2	Template of private project management document
2.6	Glossary of shared language and terms for the steering committee			
3.	**Communications strategies (strategy creation and implementation phases)**			
3.1	How to facilitate, manage conversations, and constructively address contrary positions generally			
3.2	Partner communications			
3.3	Lawyer communications			
3.4	All firm communications			

Figure 5.2. Supplement to the knowledge strategy: Table of contents

necessary to have in the brains of the members of the group, and it agrees and documents the cultural norms and values for the group.

The supplement therefore represents a common, external resource and reference for the entire committee in the decision-making process. That is, the supplement to the knowledge strategy (which will likely fill several ring binders and also be formatted as an electronic resource) is where knowledge is collected and published that is relevant to all those who are driving the knowledge strategy program. In part, this document is a collection, reflection, and commentary on research. This document is also a documentation and syndication of the values, beliefs, assumptions, and mental models that underpin the initiative.

The supplement to the knowledge strategy is prepared by and for the steering committee and settled by that committee, and it must be highly advanced in its preparation *before* the first-round consultation processes about knowledge and *before* the second-round consultation processes about knowledge strategy occur throughout the firm.

Many of the items to be addressed are self-evident from the entries in the table of contents in figure 5.2; however, assistance with the more unusual or difficult elements can be found in the subsequent chapters.

Step 3: First-Round Consultations

The methodology provides for two separate rounds of consultations. The first consultation and facilitation process is about the meaning of knowledge and the framework for a knowledge strategy. The second round of consultation and facilitation is about what the knowledge strategy should be. This two-stage, separated process is recommended for the following reasons.

The Scarcity of Time

The consultations with the lawyers are likely to be over lunch, which affords only forty-five minutes or so after people arrive, get some food, and are seated. To codevelop the conceptual framework about what knowledge is, what knowledge strategy is and is not, and how the process of strategy identification and implementation should proceed will take all of that time. In fact, it is an ambitious agenda and will need to be carefully facilitated.

Lawyer Focus

Lawyers are predisposed to discuss detail—*small* detail—rather than engage in a conceptual discussion about knowledge and about processes. The announced separation of the process into two phases gives the lawyers confidence that they will later have a chance to provide their input in relation to the detail and gives the facilitator a way to redirect conversation to the conceptual level during the first session. Codevelopment of a shared understanding of what knowledge is and what the role of lawyers is in a knowledge ecology, and codeveloping the process to be followed for the balance of the first phase, builds trust and cohesion, which are vital elements for the success of the second phase of implementation.

Better Chance for Lawyers to Learn New Concepts

One of the objectives of the first round of consultation is to introduce new words and concepts into the organizational lexicon. The more time that can be devoted to codeveloping, exploring, repeating, and then summarizing these concepts, the better the chance that they will begin to take root. Of course, these concepts and new words will then be reinforced in the circulation of the two drafts of the knowledge strategy document.

Signaling Competence, Confidence, and Structure

Lawyers know that knowledge management is hard. Older lawyers have seen several knowledge initiatives come and go, often suffering the same fate of eventual lack of support and disuse. Many of the lawyers will have experienced a gap between the promise and the delivery of past initiatives. Recognizing at the outset that the strategy creation process is going to be hard and will take two rounds of consultations and draft circulations, and that there will be no "systems," "solutions," or "databases" built before a total strategy is determined, will resonate with lawyers. You will have distinguished your approach (and the initiative) from past history and as worthy of trust, having a clear structure, and respecting and involving the views of the partners and lawyers.

Establishing Processes and Commitments to Build Trust

One of the key attributes of great professionals is that they do what they say they will do—you can trust and depend on them. Separating the consultation processes into two rounds gives you a chance to outline, and agree on, the processes that will be followed. The key is then to meticulously follow through. Establish reference points about what you and your team will do, and then ensure military precision in delivery. Before you start to work with the lawyers to change behaviors and processes in phase 2 you need to develop trust, confidence, and faith in you and your team. If you are not confident, structured, and do not deliver on processes and commitments in phase 1, you will not even get the attention of the lawyers in phase 2. Lawyers will not so much listen to your words promising collaboration as watch how you act. You may say you are going to be collaborative throughout the process, but if you have not been collaborative in this first phase you will simply not be believed and the initiative will stall.

Space to Exceed Expectations

With the methodology laid out, the ground rules are set that no major knowledge changes will occur until the implementation phase. The facilitator can openly recognize that this is going to be hard for the lawyers, as good ideas are going to percolate in the sessions, but until the overall strategy is set, there will not be a change for the better. In this, the facilitator seeks the patience of the lawyers. Now, having established a mindset that improvement is not available until phase 2, the steering group should be on the lookout for obvious things that are consistent with the ultimate strategy that can be delivered during phase 1 as favors, as exceptions to the rule.

For example, identify one or two things from the consultation processes that *most* annoy lawyers in their day-to-day work—say, the e-mail deluge, or a particular document being hard to find. Look for these opportunities to extend kindness to the groups as exceptions to the firmly established organi-

zational line that no changes are to be made until the whole strategy is completed. When these are identified, leverage the champions and the offenders so that they know a favor has been extended to them, and the emotional pull of reciprocity will further dispose them to your program in subsequent phases.

Consider engaging a stenographic or transcript service for the consultation processes so that the sessions are recorded verbatim—there is enormous value in subsequent reflection on the comments of the lawyers in these sessions. These services are not expensive, especially when you consider the combined value of the lawyers in the room! Further, such transcripts provide a rich source of quotes that can then be subsequently used in the strategy document, and during the implementation phase, to demonstrate the responsiveness of the strategy to the espoused views of the lawyers. Remember, lawyers respect evidence.

The full text of all consultation sessions should be circulated to members of the steering committee, with summary and analysis.

The content for the first round consultations will be informed by part I of this book, and the content of the supplement to the knowledge strategy will be settled by the committee.

Step 4: First-Draft Circulation

First we will look at some general principles about the knowledge strategy document, and then we will examine its contents.

Document It

The knowledge strategy for a law firm should be a document capable of distribution and capable of being printed. It should be a document that can be read—not a PowerPoint presentation, or material available only as intranet pages. Lawyers like documents.

Process to Build Understanding

The creation process of the document is itself a device to build a shared understanding within the firm on a range of issues including the nature of knowledge, law firm economics, and conceptual blueprints of specific initiatives. Creating the document should also commence the behavioral and cultural discussion about the active role of lawyers in the various forms of knowledge and knowledge projection.

Messages Everywhere

Everything about your knowledge strategy document will convey something to its readers. If it is poorly produced, it will reflect a low organizational prior-

ity for the initiative. Even the order in which material is addressed within the document will signal relative importance, as does the order of clauses within a legal agreement. The scope and organizational authority of the people who have been involved in the preparation of the document will signal its thoroughness and quality. You need to constantly and critically review the entire document, looking for the messages that will be conveyed to your highly analytic and critical audience.

Flying the Flag

Remember that the knowledge strategy document is a flagship communications document as well as an articulation of strategy. The process and quality of the communication matter almost as much as the strategy in signaling the credibility of your initiative.

Signal the Future

Use the knowledge strategy document as a way of setting expectations and signaling processes that are subsequently to be delivered: remember that lawyers are process- and detail-fixated. Lawyers want to be able to understand the process that has been followed, and the process that will be followed in the future, and they want to measure progress against it. This is one of the ways in which lawyers assess quality.

Perfection Matters

Everything in the document must be perfect. Period. No spelling mistakes or grammar errors can be tolerated. This sounds anal-retentive, but lawyers are trained to spot problems, to spot risks, to spot what is wrong. The best strategies and documents within law firms are often labeled by the firm's lawyers as poorly conceived if there are spelling or grammar errors, and such errors reflect very poorly on the authors, and therefore the entire knowledge initiative. Everything must be perfect. Pay for proofreading. Otherwise, your entire initiative will be regarded as sloppy and not worthy of support. Do not underestimate lawyers' high innate capacity for finding errors and low innate capacity for changing their mind after having pronounced something of poor quality. You get one chance.

Communicate

The structure and layout of the document should reflect the best of information architecture and the values that your knowledge initiative stands for. If elegance, simplicity, and outstanding execution are to be the hallmarks of your initiative, that needs to start with the layout, structure, communica-

Welcome from the Managing Partner

1.   Introduction
1.1   What knowledge strategy is for law firms
1.2   The business model of law firms
1.3   How lawyers work and build knowledge: the maps
1.4   What we believe about knowledge strategy
1.5   Stock take of our current knowledge strategy
1.6   Process followed in the creation of this document

2.   Firm strategy
2.1   Who we are as a firm: our culture, our strategy, and what clients expect
       of us in relation to knowledge
2.2   Recruiting: our strategy
2.3   What we measure and reward

3.   Change management
3.1   Principles that will guide our knowledge strategy and change
       management

These sections completed following the First Round of Consultations on Knowledge Strategy

4.   Knowledge strategy
4.1   What a lawyer will experience and the behaviors expected
4.2   Personal knowledge creation: our strategy
4.3   Interpersonal knowledge creation and dispersal: our strategy
4.4   Impersonal/digital knowledge: our strategy
4.5   The foundations
4.6   The must-haves
4.7   The should-haves
4.8   The investment choices

5.   Structural issues
5.1   Governance and leadership (overall, and summary by initiative)
5.2   Resourcing and budget
5.3   Measurement and reporting
5.4   Peer networking strategy

6.   Annexures
6.1   Inventory of existing digital assets
6.2   Stock take of existing knowledge activities
6.3   Further reading

Figure 5.3. Knowledge strategy document: Table of contents

tion, metaphor, branding, production values, and messages contained in the knowledge strategy document.

Do the Numbers

The knowledge strategy will contain some financial analysis and information that is relevant for partners, but not appropriate for wider distribution to staff. Create two versions of the document—*do not choose to leave out the financial analysis in the interests of producing one document for all.* Make sure you involve your finance department actively in the authoring of the financial section, and the creation of the *entire* document.

An indicative table of contents for this important document is set out in figure 5.3. Later chapters will then explore the contents of this document and provide guidance on the content of the various sections.

Step 5: Second-Round Consultations

After circulating the first draft of the knowledge strategy document, the next step is the consultation process about the strategy itself, which is the contents for sections 4 and 5 of the knowledge strategy document.

The process for consultations should be identical to the first round, representing equal importance. The second round of consultations is the chance for the lawyers to get into the detail, but in a very structured way. The con-

sultation processes should follow the structure for section 4 of the knowledge strategy document that resulted from the first-round consultations with the lawyers. In this way, the discussion of technology and databases fits as one of several parts rather than dominating the discourse.

The objective is to develop and challenge the strategy and get some preliminary ideas on what might result, or what something might look like. These sessions are not trying to design the outcome. They are trying to get the principles agreed upon—and to identify the components for further work.

Step 6: Second-Draft Circulation

Following the second round of consultations, the committee settles the final draft of the knowledge strategy document. Additionally, the group updates the supplement to the knowledge strategy to reflect the learning gained through the consultation processes.

Unlike the first distribution of the knowledge strategy document, on this occasion there is a staged distribution: partners first, then senior associates, then the balance of the lawyers and the firm. The reason for this staged distribution is to build intimacy with key constituencies. Providing the material first to partners validates and respects their special place within the organization. Consider some workshops with a range of levels to test the ideas in the document.

Step 7: Final Strategy Distribution

After allowing an appropriate window for the provision of comments, the committee considers the comments and modifies the strategy document, including confirming all of the costs again. This finalized document is then recirculated using the staggered approach.

Step 8: Annual Report

Shortly following distribution of the finalized knowledge strategy document, the committee should be preparing its first annual knowledge report.

Modeled on a public company annual report (although much smaller), and professionally produced, this document is another important, and regular, communications device with the entire firm. The components of the annual report should include:

- An articulation of the knowledge strategy
- The overall timeline
- Stock take of knowledge strategy and artifacts
- Projects for the next year
- Successes and impacts
- Financial performance last year and next year's budget

At the end of the first phase of the methodology you will have produced three key documents, achieved an organizational increase in knowledge *about* knowledge, and introduced several new words and concepts into the organizational lexicon.

Resources to Assist You in Preparing the Strategy and Supplement Documents

The following chapters contain resources to assist you in the preparation of the knowledge strategy and the supplement to the knowledge strategy, as follows.

Chapter 6, "Preparation 101: Culture Matters!" introduces the concepts of organizational culture and change management to assist you in the preparation of the supplement to the knowledge strategy and the conduct of both rounds of the consultation processes.

Chapter 7, "Consultation: Agreeing on the Processes for Change Management," outlines an approach to codeveloping the way that changes will be introduced with the lawyers. This codevelopment occurs during the first-round consultation processes and reinforces the understanding that partner and lawyer *behavioral changes* will be an outcome of the knowledge strategy.

Chapter 8, "Story: The Lawyer's Life in the New World," is a description of the future, in particular a description of a future in which the lawyer is the principal actor on center stage. This chapter is an example to help you write your firm's knowledge future in section 4.1 of your knowledge strategy document. While the final implementation may differ by degrees, the story in your strategy document is the opportunity to establish the fundamentals of the landscape, to generate interest from the lawyers, to generate recognition of the value of the initiatives, and to demand co-implementation. Your story need not be as long as the example here, but this will provide ideas for thought.

In Chapters 9–11, I discuss and make recommendations in relation to the three dimensions of the knowledge strategy: personal, interpersonal, and impersonal knowledge strategy. This material will assist with the second round of consultation processes, and the contents of section 4 of your knowledge strategy document.

Chapter 9, "Personal Knowledge Strategy: Tacit Is King," outlines strategies for the in-brain resources of the lawyer and external-to-brain resources created by the lawyer for her own use.

Chapter 10, "Interpersonal Knowledge Strategy: Creation and Projection," examines the important role of interpersonal communication in the projection of tacit and explicit knowledge and the ways in which firms can increase the quality, velocity, and frequency of those transfers.

Chapter 11, "Impersonal and Digital Knowledge Strategy," outlines the external-to-brain resources sourced by the firm from third parties, or created by the firm. In each of these components, there are recommendations

for the behaviors and processes, and any supporting systems that will deliver the value.

When we address this last component of impersonal and digital knowledge strategy, we apply our learning in relation to the business and economics of law firms, and the wisdom received from the finance director and the managing partner in chapter 3. You will recall that the framework from the finance director was in terms of *must-haves*, *should-haves*, and *investment decisions.* In referring to these things, the finance director described the three tangible and visible outputs of a knowledge strategy.

The finance director was describing three rooms of a knowledge house, but not the foundations that he could not see and with which he was not concerned. Too often, law firm knowledge projects approach each of the rooms as distinct entities, ignoring their interrelationships and their reliance on strong foundations. Needless to say, cracks start appearing in these initiatives quite early.

We cannot build the rooms of the impersonal knowledge house without first attending to the foundations, and so before we discuss the three categories of must-haves, should-haves, and investment decisions, we will first identify the efficiency foundations, which underpin the outputs.

Chapter 11 considers the following elements of impersonal and digital knowledge strategy:

- Efficiency foundations: the often ignored but mandatory basics
- Must-haves: core legal knowledge tools to compete
- Should-haves: serve clients and increase PPEP
- Legal investment choices: investment projects for quality, client service or lawyer satisfaction

Many knowledge management programs in law firms start in this last category of the third dimension of knowledge strategy—investment projects. That is, they start with a nonessential investment project that is created because it is possible, has a prominent sponsor, and applies a new technology to the firm. The firm is *doing* knowledge management. Such projects often mobilize people and produce a database or tool that is launched with great fanfare—a new knowledge management tool has been created. Then the fervor dies away; contribution and usage rates diminish to a trickle, and awareness levels decrease to almost invisible. Project sponsors and owners get uneasy and defensive when the "database" is mentioned.

These types of initiatives are like a new coat of paint applied to an unprepared wall. It will look bright and shiny for a while—proudly viewed by all involved who stand back, radiant, to admire their handiwork. Then the paint starts to peel, cracks appear, and the discoloring stains from beneath seep through. At this point, those involved look to lay blame elsewhere then on themselves.

Some law firms have seen cycles of "new paint on unprepared wall" knowledge projects, from physical precedents to a database, from a database

to an intranet, from an intranet to a portal—effort is invested in the visible output, ignoring the strategy, the preparation, the culture, and the behaviors. Preparing damaged walls for painting is hard work that few people enjoy. Gratification is delayed with seemingly endless hours of the dirty, hard work of filing, sanding, washing, and undercoating. And yet, master painters will tell you that the secret of their success is in the preparation.

So, too, masters of knowledge strategy know that the hard, slow work of culture, strategy facilitation and codevelopment, and building the efficiency foundations are the secrets of knowledge management success.

May the coming chapters help you with your hard work, and may you avoid the temptation to apply new paint to an unprepared knowledge wall.

6

Preparation 101: Culture Matters!

Every culture has its distinctive and normal system of government.
Yours is democracy, moderated by corruption. Ours is
totalitarianism, moderated by assassination.
—Unknown Russian

This chapter assists with preparation of two important sections of the supplement to the knowledge strategy: section 1, "Frank Stock Takes," and section 2, "Values, Beliefs, and Tacit Knowledge."

Many refer to the issue of culture as the showstopper of knowledge management.[1] Culture is often dealt with as the last foreboding slide of the conference presentation, or the last chapter of the knowledge management book. Culture, it is said, is an impediment, indeed the largest impediment, which must be *overcome* or *changed* to reap the rewards of knowledge management.

I take a very different perspective and would encourage you to do so as well. I believe that understanding current organizational culture and planning how to interact with and leverage that culture in the strategy and implementation phases of the knowledge initiative are the first and most important steps of a successful and enduring knowledge strategy.

In this chapter we will:

- Examine what organizational culture is, why it is important, and how to assess it
- Discuss the cultural elements that support knowledge strategy
- Identify common cultural traits of lawyers and what they mean for creating and implementing a knowledge strategy
- Provide an example of the cultural norms, and the checklist for action, for the steering committee

What Is Culture?

John Kotter, a leading expert on organizational change, tells a wonderful story in his book *Leading Change*:

> Imagine walking into an office and not liking the way it is arranged. So you move one chair to the left. You put a few books on the credenza. You get a hammer and rehang a painting. All of this may take an hour at most, since the task is relatively straightforward. Indeed, creating change in any system of independent parts is usually not difficult.
>
> Now imagine going into another office where a series of ropes, big rubber bands, and steel cables connect the objects to one another. First, you'd have trouble even walking into the room without getting tangled up. After making your way slowly over to the chair, you try to move it, but find that this lightweight piece of furniture won't budge. Straining harder, you do move the chair a few inches, but then you notice that a dozen books have been pulled off the bookshelf and that the sofa has also moved slightly in a direction you don't like. You slowly work your way over to the sofa, to try to push it back into the right spot, which turns out to be incredibly difficult. After thirty minutes, you succeed, but now a lamp has been pulled off the edge of the desk and is precariously hanging in midair, supported by a cable going in one direction and a rope going in the other.[2]

There are many insights we can draw from reflecting on this story. If we consider our firms to be systems of independent variables, which can be moved and repositioned at will, knowledge management becomes a straightforward strategic exercise. Work out the strategy yourself, tell people what the strategy is and what they have to do, and then sit back and enjoy the rewards as lawyers and others instantly embrace the new behaviors and processes and abandon old behaviors and processes.

In our simplistic dream, our partners and lawyers not only embrace the new behaviors and processes but also are enthusiastic about doing so and recognize our genius. Of course, in our dream, our egos are well nourished.

The reality of our firms, however, is much more like Kotter's second office—or worse. Unlike Kotter's ropes, rubber bands, and steel cables, in the law firm many of the forces binding objects together are invisible and booby-trapped. In the firm, efforts to move some of the ropes or rubber bands generate not only a force to resist the change but also forces to immobilize the agent of change. Like a living organism with an immune system, a law firm *always* has some reaction to a foreign body that is trying to change it. The causes of the invisible barriers are many, including historic personal power of individuals, politics, and processes preserved because of a painful experience long gone but still lingering as a strong part of the firm's folklore.

The forces that bind the organization and its behaviors together are called culture, and culture is a powerful force that must be both understood and leveraged in your effective knowledge strategy.

A firm's culture is no more than a knowledge collection within the brains of the people in the organization. It is knowledge that is deeply held and usually difficult to move. It is knowledge that affects, and often dictates, the way in which people in the organization behave as individuals and as a group, and how they approach situations. Culture is the shared norms about appropriate and inappropriate behaviors, the knowledge of the style of behavior that is likely to succeed, and knowledge of the styles of behavior that in the past have occasioned failure. It is the shared history of experiences, the memory of the organization blessed by the imprecision of perception and emotion—it is not the actual history that matters, but how it is understood, reported, and remembered. It is the shared set of values, beliefs, policies, rules, assumptions, stories, history, mental models, and rules of thumb.

In pursuing your firm's knowledge strategy, you need to work with the culture, not try to change all of it, which is simply impossible. If you can take stock of the current culture, conceive the future culture, and then plan how you will leverage elements of the present culture to achieve the future culture, you are more likely to be successful. Of course, some things in the current culture may need to be broken, but even in the breaking of them, if you can leverage or extrapolate from another part of the culture, it is more likely to have deeper root. For example, you may be able to reframe your messages in language and metaphor that leverage the organizational culture and history—you may be able to align the change with a past success and distinguish it from a past failure.

Cultural Stock-Taking Strategy

At its simplest, culture is "what happens around here," "how things get done," "how we do things." Ed Shien, one of the leading thinkers in organizational culture, provides a more formal definition of culture as "a pattern of shared basic assumptions that the group learned as it solved its problems of external adaptation and internal integration, that has worked well enough to be considered valid and, therefore, to be taught to new members as the correct way you perceive, think, and feel in relation to those problems."[3]

According to Shien, there are three levels of culture:

1. Artifacts
2. Espoused values
3. Basic assumptions

Artifacts

Artifacts are the physical manifestations of the firm's culture—that is, what can be seen, heard, or felt. Think about the artifacts of your firm and their

meaning to the people at your firm. Exit your building, and imagine you are an explorer from another planet and then "visit" your firm, making specific observations on your journey in a notebook.[4] Consider the following questions:

- What does the reception area "feel" and look like?
- What emotions are conveyed by the reception staff?
- If there are publications in reception for visitors to read, what are they? What do the firm's publications convey about what is important to the firm?
- Walk around the floor of the office, what feeling do you get about the people there, and how they react and relate to each other. Is it quiet or noisy, individual or team-oriented? Ordered or messy? Drab or colorful? What is on the walls?
- Looking more closely at the work areas of individuals, is difference permitted? Is organizational status represented by proximity to windows, better views, or corner offices, or is the physical environment consistent?
- Do lawyers look stressed or energized?
- What is the degree of formality in dress and language?
- Are there communal spaces for teamwork?
- What is the dynamic of the break room—are staff members making coffee in silence and avoiding eye contact, or engaged in conversation?
- Are there differences in artifacts between different practice groups, and within practice groups?
- What objects are given to new lawyers in induction processes?

Espoused Values

Espoused values are the values that the organization officially articulates, either internally or externally. Typically, a firm's espoused values are the domain of management, often wrapped up in management-speak or marketing jargon.

Your firm's espoused values can be found in:

- Recruiting brochures
- Your Internet and intranet site
- Your mission statement
- Your values and competencies framework
- Strategic presentations from management
- Client-facing publications and brochures
- Formal policies and procedures
- Policy and criteria for admission to partnership

In most law firms, the espoused values have an aspirational component—that is, management, and the firm, realizes that the firm does not *yet* behave

consistently with the espoused values, but they are the values that are aspired to, and hopefully are being positively encouraged and rewarded.

Basic Assumptions

Basic assumptions are the mental models, or basic assumptions, about what matters and how things get done.

As you may expect, there is often a degree of disconnect between an organization's basic assumptions and its espoused values. For example, a firm's espoused values may include a commitment to the training of its lawyers, but a basic assumption within the firm is that billable work and client matters always take precedence—even if you have personally committed (and confirmed) attendance at an expensive external training program.

The basic assumptions are the organizational folklore, which will often contain simpler, and more direct, expression than the more prosaic espoused values. In some cases, basic assumptions may also contain the informally recognized exceptions to policies, or the accepted rules about how to determine when it may be appropriate to depart from a firm policy.

To analyze the basic assumptions of your firm, you should consider the following:

- What do partners and management pay attention to (i.e., manage)?
- What information is sent to partners by management, and how much of that information is actually discussed or acted on?
- What is the structure of the agenda of the board or management committee, and what items historically attract most attention?
- What do partners pay attention to, and care about, in relation to the lawyers for whom they are responsible?
- What behaviors attract organizational sanction?
- What espoused values attract no sanction for breach?
- What behaviors are rewarded?
- What is supposed to be measured in performance assessments? What are the consequences for failing to meet the measures set? What parts of performance assessments are done thoroughly, what parts summarily? (Analyzing an anonymized collection of performance assessment forms would be quite illustrative.)
- What do the last ten people admitted as partners care about, and how do they behave? What do they indicate are the secrets of their success at the firm?
- How are the criteria for admission as a partner applied? What factors occupy most discussion in admission committee deliberations? On what grounds were the last five unsuccessful candidates for admission declined or deferred?
- What perspective does a range of exit interviews yield about the culture?

• Learn as much as you can about a handful of projects regarded as successful and a handful of projects regarded as unsuccessful over the last ten years. What is the folklore about how to succeed with projects within the firm?

Your team driving the knowledge management initiative needs to do this research thoroughly, thoughtfully, honestly, and confidentially and document it in the supplement *before* it engages in consultations or plans personal, interpersonal, or digital asset strategy. Human resources, in particular, will have a valuable perspective to offer in this research exercise.

The reason that this research must be done *first* is to identify the steel ropes, the invisible relationships, the booby traps—all of the things that your knowledge program is going to encounter. This is vital reconnaissance: information that will prevent the casualties that will otherwise imperil your mission.

Having taken stock of current culture, the group should next identify the type of culture that would support the creation and projection of knowledge within the firm. Unfortunately, most of the literature does not provide assistance beyond statements that you should have a "knowledge sharing culture."

In 2001, McKinsey published a survey of knowledge management practices in some forty companies on a global basis to examine what distinguished successful projects from unsuccessful projects. In an article in the *McKinsey Quarterly*, "Creating a Knowledge Culture," the authors summarized their findings from the survey: "The survey's findings can be summarized simply: successful companies build a corporate environment that fosters a desire for knowledge among their employees and that ensures its continual application, distribution, and creation. . . . Less successful companies tend to take a top-down approach: pushing knowledge to where it is needed. Successful companies, by contrast, reward employees for seeking, sharing, and creating knowledge. It requires effort to develop what we call 'knowledge pull'—a grassroots desire among employees to tap into their company's intellectual resources."[5]

The existence of a culture of "knowledge pull" was a key common component of the successful knowledge management programs. This echoes Manville and Foote's belief that the power in knowledge management is on the demand side (i.e., lawyers looking for information), rather than the supply side of the firm wanting lawyers to share.

Instead of starting by trying to build a culture of knowledge projection, building a culture of demand for, and expectation of, the leveraging of collective knowledge is a much easier cultural battle. If leveraging collective knowledge is a part of the cultural identity, the people within that culture will behave consistent with that identity, and transfer and project knowledge themselves in order to facilitate the reciprocity of sharing upon which knowledge management is based.

Set out below is a set of cultural norms and beliefs that *will* support knowledge strategy in a law firm:

Cultural Elements That Support Knowledge Strategy
We are a "one-firm firm." We hire great lawyers who want to be a part of a cohesive firm where lawyers work together and help each other on matters for great clients. We trust each other in the use of knowledge, and in the respect for the efforts of others.

We believe that what makes us great as a firm is applying the knowledge and skills of all of our people for our clients. The knowledge of our people includes legal knowledge, research knowledge, people knowledge, skills, motivation, and values.

We believe our clients are entitled to our collective expertise—to demand we learn from the efforts of other lawyers at the firm. When approaching work, we always look first to leverage the expertise, and prior learning, of the firm.

As professionals, we all have intellectual curiosity within our areas of law. The continuing development and maintenance of personal and collective actionable knowledge is a core value of the firm.

Our firm values, measures, and expects excellent research skills.

Each lawyer at our firm accepts the personal responsibility that comes with being a part of this firm and takes personal accountability for the quality and completeness of information that they supply and share with the wider group. Performance evaluation systems are aligned with these expectations.

Our practice leaders and partners are committed to applying the firm's collective intelligence and are themselves examples of excellence in personal, interpersonal, and impersonal knowledge use and projection.

We believe "knowledge management" is an unhelpful term—we talk about "knowledge strategy." We believe that knowledge strategy without a purpose linked to the business is a distraction, and a waste of time and money.

We believe knowledge strategy is more about people, conversations, knowledge projection, and personal learning than about databases or technology. We believe that effective knowledge strategy requires meaningful commitment from every lawyer to personal development and to knowledge projection and requires the support of the firm and its management.

Together, as a firm, we set the strategy and agenda for knowledge strategy. Once set, individual differences are put aside.

We believe knowledge strategy needs investment, specific roles, and dedicated resources to happen.

As a firm we only invest in knowledge related initiatives that enable us to compete, deliver on our promise to clients, maintain

our high quality, increase leverage, reduce overheads, or make non-legal activities done by lawyers more efficient.

Review this list and consider each point against your assessment of your firm's current culture (the basic assumptions, not the espoused values). Classify each of the points above as one of the following:

- *On track*: The item is already part of your culture—a great start!
- *Capable of integration*: The item is not part of the culture, but it is possible to frame this concept as consistent with, or an extension of, existing components of your culture. Alternatively, it is possible to frame the absence of this element as inconsistent with your existing culture. These elements may be integrated, with effort, into your culture.
- *A rope to break*: The item is not part of the culture, and there are strong organizational norms that are inconsistent with this concept. This element cannot be integrated with the existing culture and will require changes to one or more elements of the existing culture. A rope will need to be broken here.

Your supplement to the knowledge strategy needs to take stock of your current culture and contain this analysis to identify those elements of the knowledge-supporting culture that can be leveraged, those that can be integrated, and those that will require a cultural change.

For those elements *on track for* or *capable of integration*, identify the parts of the existing culture that support the element and articulate how the element can be understood as congruent and consistent with existing culture. Conversely, how does the new element of culture give congruent meaning to other existing parts of your culture? How can you present this new element as an interconnected and natural part of the organization's culture and the *identity* of your lawyers? What artifacts and espoused values would assist in the integration of this cultural extension?

For those elements *not capable of integration*, outline the parts of the existing culture that are inconsistent with the new element. In what way is it inconsistent? What would the common objections be? Why is the new element not "the way things are done around here"?

Most firms' espoused values would be consistent with most of the twelve cultural elements outlined above. Their failed efforts, or lack of preparedness, to enforce those espoused values generate the basic assumptions within the firm that are inconsistent with the elements above.

At the end of the day, it is what is done, not what is said or espoused, that matters. If these things are not addressed the knowledge strategy will simply not be successful. Much time and effort of good people will be wasted, and the removal of the leadership of the knowledge initiatives is assured within three years. Get the cultural issues right or the project is doomed, and you will need to find a new job in three years.

For each of these elements not capable of integration:

- What would it take for people to *really* believe that it *is* the way things are done?
- What would it take to move from an *espoused value* to a *basic assumption*?
- What would be the most powerful signal, which would reverberate through the grapevine, that the dragon preventing this new element had been slain?

For example, would the deferral of a partnership candidate who did not represent that element of culture provide the signal? What would it take?

For each element that cannot be easily integrated in the culture, you *must* identify a process, and a plan to execute, to clearly and unmistakably deliver the signal of change within the firm. You also need to ensure that contrary signals do not occur—the favorable signal will be neutralized if behaviors that are inconsistent with the new cultural element are sanctioned or abided. For example, there is little point to deferring one partnership candidate if several successful candidates display contrary attributes.

In considering your strategy, you should also consider an explicit artifact program as an additional way of signaling and reinforcing the cultural shift. Do not expect cultural change to occur if you do not address these issues.

The Common Cultural Traits of Lawyers

Section 2 of the supplement to the knowledge strategy is an identification of the common cultural traits of your lawyers.

As most of the communications in relation to the knowledge initiative will be with lawyers, it is worthwhile to analyze the common traits of the lawyers at your firm and ensure that you leverage and address those traits in all of your communications and interactions. In other words, as a committee, and as a leader, you need to approach your market with the same professionalism and thoroughness as the best product marketer you can imagine. You need to know your customers intimately. You need to know what makes them tick, what turns them on, what turns them off, what makes them trust, and what makes them buy.

How Are Lawyers Different?

Susan Daicoff, professor of law at Capital University, has researched lawyer personality, professionalism, and the legal profession. Daicoff says that the research clearly indicates that lawyers are indeed different from the general population, and that there are several characteristics that distinguish lawyers from the general population as follows:

1. Low interest in people, emotional concerns, and interpersonal matters
2. Less humanitarianism
3. Cold and quarrelsome, and less warm and agreeable
4. Extroversion and sociability
5. Masculinity (including argumentativeness, competitiveness, aggression, and dominance)
6. High need for achievement based on an external or internal standard of excellence (includes competitiveness)
7. Myers-Briggs dimension of "Thinking" vs. "Feeling" (approach to making decisions)
8. Preference for Myers-Briggs dimensions of Introversion, Intuition, Thinking, and Judging;
9. Conventional, law and order approach to moral decision-making
10. Greater than normal incidence of psychological distress (including depression) and substance abuse[6]

As table 6.1 indicates, the research data underpinning these conclusions are striking. The Myers-Briggs preference for thinking versus feeling bears some further explanation for those not familiar with the Myers-Briggs types:

- *Thinkers* value justice, rationality, truth and objectivity; decisions don't reflect their own personal values; they can be cold and calculating; they are good problem solvers.

Table 6.1
Research findings on lawyer attributes

	Lawyers	Population
Extremely dissatisfied with job	17%	
Depression	19%	3%–9%
Alcoholism	18%	9%
Chemically dependent	15%–18%	10%–13%
Myers-Briggs thinking (vs. feeling) preference—men	81%	60%
Myers-Briggs thinking (vs. feeling) preference—women	66%	35%
Testosterone levels (nonlitigators)	40% higher than other professionals, lower than blue-collar workers	
Testosterone levels (litigators)	30% higher than other lawyers—same levels as blue-collar workers	

Source: Daicoff, users.law.capital.edu/sdaicoff/allslides99/sld001.htm.

- *Feelers* value harmony, interpersonal relationships, praise, and mercy; apply their own personal values to make decisions; seek to do what's right for self and others; are sensitive to the effect of decisions on others.

As Daicoff says, "Those who prefer to make decisions on the basis of thinking prefer to come to closure in a logical, orderly manner. They can readily discern inaccuracies and are often critical. They can easily hurt others' feelings without knowing it. They are excellent problem solvers. They review the cause and effect of potential actions before deciding. Thinkers are often accused of being cold and somewhat calculating because their decisions do not reflect their own personal values. They focus on discovering truth, and they seek justice."[7]

These are the types of people that you will need to work with and codevelop a behavioral shift with.

Labor under no misapprehension.

To help you get started with your analysis, below are eleven common cultural traits of lawyers, and the implications of those traits for the strategy creation and implementation phases of knowledge strategy. You should consider whether your partners and lawyers demonstrate these cultural traits, completing the analysis with any other traits common within your firm. Your finished analysis should be documented as a group in the confidential supplement to the knowledge strategy, along with your strategy for leveraging those traits in everything you do.

Common Cultural Traits

Trait 1: Language is the tool of the lawyer's trade, and lawyers take great pride in verbal precision, spelling, grammar and highly analytic use of language.

Strategies and implications to address the trait:

- Proofread everything.
- Try to identify and define concepts wherever possible.
- Consider reading books on great speeches and speechwriting or using a suitable journalist to assist with the writing.
- Read documents written by leading, well-respected partners of the firm, and distill common phrases and language constructs for use in your materials.
- Actively listen to the language used by lawyers within the firm.
- Always use consistent language. Do not use different words for the same concept, which will be interpreted as fuzzy and loose thinking.
- Be rigorous in your precision of language.
- Ensure everyone on the team knows how to tell great (and effective) stories.[8]

Trait 2: Lawyers like to be able to understand the rules and the source of authority for a proposition. They like to understand and analyze the causes and effects.

Strategies and implications to address the trait:

- Build credibility by demonstrating the research and authorities upon which your views are based.
- Give the lawyers enough information for them to build a conceptual framework in their mind; otherwise they will be uncomfortable and feel that they are either "not being told the whole story" or are "being kept in the dark"—neither of which predisposes them to helping you.
- Use the language of tests—for example, the test for whether an investment is made or not—rather than the "business case."

Trait 3: Lawyers are highly critical, wanting to test propositions to assess the logic and to identify alternatives. Lawyers are predisposed by their training to identifying problems, risks, or reasons why something will not work. Lawyers want to go into detail to identify what is wrong, rather than what is right.

Strategies and implications to address the trait:

- During communication processes, directly ask lawyers, "How can we test this?"—be open to examine things.
- Do not be defensive when a lawyer probes to understand the issue—help him work through the process rather than being defensive. Respect the process of identifying alternatives, but focus on moving forward and making a decision.
- Litigators, in particular, will probe hard in order to *understand*, not with the intent to destroy the concept (not necessarily, anyway). Expect to be analyzed (cross-examined) on the limits of the points you are making, as lawyers try to examine the circumstances in which the principle does, and does not, apply. Understanding the limits, and the circumstances in which the principle you are advocating does and does not apply, is one of the ways lawyers internalize new concepts.
- Always expect a highly critical audience.
- In facilitation processes, use a technique suggested by Edward de Bono. When presented with a concept or an idea, participants have to separately identify what they like, what they don't like, and what they could do to make it better. With this thinking framework, better and more productive feedback will be generated.

Trait 4: Lawyers are normally used to problem solving and identifying options, not making a decision—that's the client's job.

Strategies and implications to address the trait:

- This "problem identification and multiple solution" trait can be the death of many facilitation and change attempts within law firms. Much talking is done, many options are canvassed and documents created, but no decision is made.
- Clearly signal when a decision is to be made by the group, as opposed to periods when options are to be identified and explored.
- Indicate options that were *discarded* in your thinking. Articulate why they were considered and why they were discarded. If you do not do this, lawyers will feel that you have been lazy and have not considered other options (even though you have). Lawyers' advice to clients is a process of identification and examination of options considered—they do not provide only the option they think is best, they articulate the options they considered along the way. Mirror this approach in your communications.

Trait 5: Once they understand a concept, lawyers expect something to already have been done—"why haven't we done that?" Once internalized, a concept becomes "obvious" to them, and they can become frustrated that the firm has not already done what is obviously required.

Strategies and implications to address the trait:

- Overmanage expectations. Ensure that an expectations management plan is a part of your project methodology.
- Build a story about the time it takes to do things, or how long it has taken other organizations to achieve a similar process, and challenge the group to do better than *that* timeframe. Find a story to tell about an impatient client wanting a very difficult legal solution implemented immediately, without understanding the time involved or what the lawyers were doing. This will resonate with the lawyers, validate their value, and provide an acceptance of the time it will take your programs to come up to speed.
- Acknowledge the effort in creating the strategy, and that implementation can occur only once the entire firm has been involved in the strategy creation process. Find an example of a legal transaction where consensus was necessary before moving, even though the appropriate course was obvious early (maybe an insolvency or litigation example). Conversely, build a story of where the absence of planning in a large legal transaction resulted in an angry client or dissatisfied lawyers—in other words, find an example of a failure, the pain of which the lawyers will be keen to avoid.

Trait 6: Lawyers, as professionals, need to feel consulted in relation to change processes—to feel their input is

considered and may make a difference. Lawyers can be
managed only to the extent they consent to be managed.

As Maister explains, "To get anything whatsoever done, professionals must voluntarily approve and accept new accountabilities. They must willingly vote (or at least consent) to give up their jealously guarded autonomy. They must agree to be managed."[9] Lawyers hesitate to subordinate themselves to others or to support organizational goals not completely congruent with their special viewpoint.

Strategies and implications to address the trait:

- Make the two-round consultation process very clear at the outset.
- Visit *every* partner *individually* in the two-round consultation process. Be there to listen, not to tell.
- Make sure that detailed notes are made of all consultations and a report prepared on the consultation process with direct quotes. Seek consent to have the notes from the one-on-one interviews made available to interested readers as part of the process.
- Acknowledge in the knowledge strategy document the names of all of the people who participated in the consultation processes and in personal interviews.
- Rigorously compile the notes of interviews.
- When changes are made during the drafting process for the knowledge strategy document after the drafts have been circulated for comment, ensure that when the final knowledge strategy document is released there is commentary recording the numbers of submissions received, which issues they addressed, and what changes were incorporated into the final document as a result of the submissions. Ensure that at least one substantive change is made following the draft-circulation phases.

Trait 7: Lawyers rarely experience failure, and they can
become defensive, screen out criticism, and put the blame
on anyone and everyone but themselves.[10]

Strategies and implications to address the trait:

- This is particularly relevant in relation to the second round of the consultation process, when the specifics of the knowledge strategy are being discussed.
- Do not ask what they need, but run the facilitation sessions by "looking in" at the same practice areas in another fictitious firm that already has the knowledge-supporting culture outlined earlier. What do the lawyers there do? Ask the lawyers to describe the *existing* behavior in that other firm. If lawyers have to reflect on their current situation, they are more likely to descend to detail about why a particular initiative is not working, rather than exploring whether it remains the *right* initia-

tive, or how it may fit into a broader conceptual framework. Remember, lawyers' brains are wired to identify the problems with situations with which they have been presented, and their deepest frame of reference to analyze will be historic knowledge initiatives at the firm.

• Given that lawyers will normally need to assign blame for the fact that the present situation is not perfect, consider how the issue of blame can be handled. There will be people in the room who have been involved with previous initiatives, many through personal sacrifice, great dedication, and a selfless devotion to the greater good. Protecting these people from blame will be important, and yet, analytically, the lawyers in the room will need to be able to identify why things are currently not in the perfect state. Remember that lawyers are wired to cause and effect. If the current situation needs changing, that situation must have occurred because someone failed to do the right thing. Consider blaming the KM = IT construct as the major contributor to the lack of progress at the firm, at the same time recognizing that other organizations have *still* not moved on from that limiting construct. This will give the lawyers a focal point for blame with which they can be comfortable, a point of differentiation, and a "win" in being progressive.

Trait 8: Lawyers as professionals have specialized knowledge and have been trained as an elite, and they often regard their judgment in other domains as sacrosanct as well. Lawyers look to their peers to determine codes of behavior and acceptable standards of conduct.[11]

Strategies and implications to address the trait:

• Expect it, and do not be threatened or disheartened by it. Accept as a given that the lawyers will not extend professional respect for the discipline of knowledge management. You must earn personal respect through action and conduct.
• Explain the composition of the steering committee and the key role being played by lawyers in that team. Provide short biographical information in relation to the lawyers on the steering committee to provide an association for the lawyers during the consultation processes.
• Create a story to demonstrate the contribution of the different skills of you, your team, and the lawyers in a context that is meaningful for lawyers.
• Tell a story of how the consultation processes from other groups of lawyers yielded insights that were unexpected by your team, which have now been incorporated into the firm's thinking. This will act to both demonstrate the attention being paid to lawyers in the session and also quietly stir their competitive instinct to provide better insights than other groups of lawyers.

- Explicitly reinforce the value to the process from them challenging concepts to build a better outcome for themselves and for the firm.
- Treat the lawyers as intellectual peers in the discipline of knowledge management, rather than as novices (even though you have read more and have a deeper perspective).
- In the consultation processes, pre-brief at least one highly respected lawyer on the issues that will be canvassed and codevelop some stories and questions you can ask that person, and that that person can ask you, to demonstrate credibility and acceptance.
- Use examples in the discussions that were yielded from the one-on-one discussions with partners. In other words, make sure that several of the one-on-one partner discussions have occurred with partners in the group prior to the practice group consultation process. References to the private discussions during the consultation sessions reinforce the respect for the facilitator by association with the partners, and comments in relation to those discussions will acquire the tacit approval and endorsement of the relevant partner. Leverage the fact that lawyers will look to partners for their lead.

Trait 9: Law firms and lawyers have high levels of political activity.[12] *Rainmakers who bring in clients wield power.*

Strategies and implications to address the trait:

- Recognize the highly political nature of the organization and leverage it; do not rail against it. Research it and understand it.
- Think like the best politician you know.
- Prepare to engage. Do the research on the people and their practices— have the hard data about *their* practices, *their* clients, and demonstrate an understanding of the work *they* do. Do not use the data to rebuff, or stall argument, but as a way to lead them to a greater understanding, and to lead them to respect both your interest in them and the quality of your work.
- Remember your firm's document management system contains *all* the documents written by your lawyers and can provide an outstanding way to quickly get a sense of the actual work done by the lawyers and provide the examples to engage in discussion. Do your homework.
- Thoroughly—*thoroughly*—prepare for a political campaign by taking the creation of the supplement, and its use, very, very seriously.
- Find out who the rainmakers are. Know them, research them, talk to them, win them as friends. Find out whom they respect, and win those people as friends as well. How would the work you are doing make life easier for them—what can you do to help them? What are they interested in? Be able to succinctly articulate to them the value of what you are doing.

Trait 10: Lawyers have a hierarchy, and younger lawyers
may be less disposed to participate in facilitation processes
or say something that may be considered ignorant.

Strategies and implications to address the trait:

• Establish the ground rules at the opening of the consultation meeting and have the message about equality and importance of contribution made by a respected partner in the group.
• Acknowledge at the start of the consultation session that the various roles, and experiences, of the participants means they will have a different perspective on knowledge and how they use knowledge in their jobs. The objective of the session is not to arrive at a singular best model, because the ways lawyers use, and transfer, knowledge will change during the course of their careers.
• Ensure a balance of views during the process, which may require specifically asking individual participants for their views during the session.
• Establish the ground rules in relation to stretching the thinking, which will involve saying something silly. Pause at some points, and ask for contrarian thinking, something truly different, as a way to further the thinking and also to establish safety for making any suggestion.

Trait 11: Partners are the owners of the business and have
passed a rite of passage to partnership that validates
them as special. They like to be treated differently to
acknowledge their position and status.

Strategies and implications to address the trait:

• Make sure that the partners always receive major messages and information *before* general distribution.
• Consult all partners, one on one, in both rounds of the consultation processes. Spend more time in the consultation processes with senior partners and rainmakers and seek the wisdom of their richer experiences and their visible support for the initiatives.
• Specifically indicate where the draft-circulated plans were modified in relation to partner input and consultation, acknowledging the value of the contribution that has been received from partners.
• Tell the partners that their attendance at the consultation sessions is an important part of getting lawyer buy-in. Encourage them to repeat in the consultation sessions comments that they may have made one on one to increase the understanding of the group. Otherwise, partners will either not attend or attend and not add their voice to the discussion because they have already made their views known to you and it is redundant for them to tell you twice.

You now know how to identify the culture of your law firm, and how to identify the cultural traits of your lawyers, with a view to leveraging both in following the methodology of first creating, and then implementing, your knowledge strategy.

The final cultural dimension to consider is the culture of the steering committee and the culture of the entire knowledge strategy initiative.

We know that the supplement to the knowledge strategy is a part of the knowledge strategy for the knowledge strategy, and section 2 of the supplement is about the values, beliefs, and tacit knowledge for the members of the group driving the initiative.

Values, Beliefs, and Tacit Knowledge for the Steering Committee

Section 2 of the supplement to the knowledge strategy, "Values, Beliefs, and Tacit Knowledge," contains the following elements:

- Values, beliefs, and behaviors that will guide the conduct of the committee and its approach to knowledge strategy
- The checklist against which we measure all we do in progressing the knowledge strategy
- Minimum standards for members of the steering committee on tacit technical and tacit knowledge about knowledge management
- Mandatory reading for members of the steering committee (books, articles, etc.)
- Minimum skills expected of those involved in change management processes
- Glossary of shared language and terms for the steering committee

Several of these are obvious—for example, the minimum standards of tacit knowledge for group members, mandatory reading lists, minimum change management skills, and the glossary of shared language (for which you may reproduce and add to the glossary in this book). The first two elements, however, are a little less common and warrant some discussion.

Cultural Focus of the Steering Committee and the Knowledge Management Initiative

In this section of the supplement, the steering committee is to reflect on the values, beliefs, and behaviors that will guide the conduct of *their* committee and its approach to knowledge strategy. This is a key part of building a cohesive group to drive the facilitation processes and to have educated, productive discussions and the creation of knowledge.

Below is an example of how the cultural focus of the knowledge initiative and the steering group might be expressed:

- We will always listen carefully to understand our partners and lawyers. We will never interrupt. We will never think about what we are going to say in response when we should be listening.
- We will facilitate and codevelop the knowledge strategy with the lawyers and co-implement every project we undertake.
- The order of our focus is personal, interpersonal, and then impersonal knowledge.
- Tacit knowledge is king. Secondary sources are the princes.
- We will aggressively use the minimum of technology, and use it cleverly, simply, and elegantly.
- We will take all steps to minimize administrative impact on lawyers at all times.
- We will always follow the same change management processes for the introduction of new behaviors and processes.
- We will continually check and measure that we are making a positive difference to partners, lawyers, and clients. Success is not in the delivery of an initiative, but in the actions of our partners and lawyers, and in the performance of the firm.

The Checklist Against Which All Knowledge Initiative Actions Are Measured

The table of contents for the supplement to the knowledge strategy also calls for the creation of a checklist against which the steering group measures all of its activities in creating and implementing the knowledge strategy for the firm. This checklist becomes a key cultural artifact for use, and reference by the group. It is the knowledge equivalent of Moses's Ten Commandments.

An example of such a checklist is set out below to encourage your thinking. This checklist should be continually highly visible to the team leading the initiative. Further, before any communications are released to the firm, or any initiative released, it should be measured against the checklist and adjusted accordingly.

Checklist Against Which We Will Measure Everything We Do

- Are the spelling and grammar perfect, and the written expression engaging and outstanding?
- Does it use the language constructs of lawyers?
- Is it clear what the lawyer has to do with the material? Is the next step obvious?
- Is it elegant?
- Is it simple?
- Will it exceed expectations and generate WOW?
- Is it obviously consistent with the knowledge strategy?

- Is it entirely consistent with (or does it exceed) the commitments we have made?
- Does it positively reinforce the culture we are trying to build? Is it visibly and obviously anchored to existing cultural norms?
- Does it leverage the traits of lawyers?
- Does it seek meaningful feedback?
- Is the authority clear? Is the process by which it has come clear?
- Is it consistent with the brand messages of our program?
- Is it possible to use less technology and more people?

7

Consultation

Agreeing on the Processes for
Change Management

They always say that time changes things, but you actually have to
change them yourself.
—Andy Warhol

As knowledge management is the behaviors and processes by which a group
of people maintains and increases their personal and collective actionable
knowledge to compete, increase performance, and to decrease risk, it follows
that a knowledge management initiative will involve *changes to behaviors* and
changes to processes.

These changes may be in the form of:

- New behaviors and processes
- Modifications to existing behaviors and processes
- Termination of existing behaviors and processes

Without *changes* to behaviors and processes, limited progress will be made
toward achieving better organizational performance.

Take, for example, Andersen's initial large-scale knowledge management
platform Anet, linking some 82,000 people. It involved large expenditures for
hardware, travel, and training on how to use Anet, but it achieved disappoint-
ing results because relevant behaviors and processes were not addressed. The
cultural elements were simply not part of the technology-focused knowledge
management blueprint. Eventually, Andersen made changes to incentive and
reward systems, performance evaluation processes, and the behaviors of its
partners in using the system, which significantly increased the impact of the
initiative.[1] Behavior, not technology, is the key to success.

As outlined in the last chapter, organizational change in law firms takes
significant planning and sensitivity—every law firm has an immune system
that springs to life to protect the status quo. In this chapter, I suggest that you
precondition your lawyers to *expect* change—in fact, to *demand* change—

Table 7.1
Key documents created during phase 1 and phase 2

	Phase 1: Strategy formulation	Phase 2: Project implementation
Public document	Knowledge strategy	Project plan
Private document	Supplement to the knowledge strategy	Supplement to the project plan

and allow them to be the architects of the processes and artifacts of change introduction.

I believe that the second phase of the knowledge strategy methodology, implementation, should always follow a consistent, regular, transparent, and published methodology. You will have noted that the work for the steering committee in creating the supplement to the knowledge strategy includes creating two project-planning templates for use during the implementation phase.

You will recall that, in the strategy creation phase, two complementary documents were created, the knowledge strategy document and the supplement to the knowledge strategy. This structure of two complementary documents is also followed in the implementation phase. In the implementation phase, there is a public project plan, which is shared with all of the lawyers as a communication tool, and a second, private supplement to the project plan, which is used by the group driving the particular initiative. This public/private approach to the documents is outlined in table 7.1.

One of the key parts of the private supplement to the project plan is planning how the changes required by the project are going to be signaled and introduced. In the first round of the strategy creation consultations, you and your lawyers should discuss and agree on the process that will be followed to signal and introduce changes during the implementation phase.

In other words, the lawyers create the template for how change will be introduced to them. This does two important things. First, it generates an assumption and expectation in the brains of the lawyers that changes are going to be made because of the knowledge strategy, and that the changes include changes to their behaviors. Second, the lawyers have endorsed the process by which change is to be introduced and have been given the ability to control the process in a way that substantially increases subsequent participation.

Creating Your Template for Your Private Supplement to the Project Plan

As your knowledge strategy will be changing behaviors, it follows that your standard supplement to the project plan should incorporate the learnings from the change management literature to maximize the chances of success.

So, what are the learnings from the change management literature, why do people resist change, and what can be done about that? What should feature in the plan to make sure it is addressed every time, in every project?

Why People Resist Change

While the reasons that people resist change are as numerous as there are people, common themes emerge from the leading writers. Boyett and Boyett provide the following summary of the six major reasons identified in the literature why people resist change:[2]

1. *Perceived negative outcome* for the individual, the group to which the individual belongs, or for individuals or groups that the individual cares about.
2. *Fear of more work*: Employees believe that the change will result in either more work for them, or in less opportunity for reward or development.
3. *Habits must be broken*: People are very much creatures of habit, and employees have built up a body of knowledge, experience, and skills over a period of time that enables them to do their jobs and operate within the company. If it were easy to change habits, we would all be happy, fit nonsmokers with perfect relationships.
4. *Lack of communication* about the impact and meaning of the change. John Kotter argues that most organizations undercommunicate their change programs by as much as *10,000 percent.*
5. *Failure to align with the organization as a whole*: The initiative runs contrary, in some way, to strong organizational cultural norms that resist and fight off the change.
6. *Employee rebellion*: Driven by a sense of loss of control over destiny, some people resist the change. Having been neither involved, nor consulted, in the architecting of the change to *their* lives, they are uncomfortable with changing *their* behaviors. They know what the current state feels like, and they are unsure and uncomfortable with the ambiguity of what the new state will feel like.

So if these are the major reasons people resist change, what are the keys to successfully managing change—to increase the chances of your success in achieving behavioral change within your firm?

How to Manage Change

In *Leading Change,* John Kotter, the leading thinker on managing change, outlines his eight-stage framework for managing change, addressing the common reasons why change management initiatives fail.[3]

The eight-stage framework is as follows:

1.   Impact of item
1.1   Why will lawyer's lives be better?
1.2   What is the impact on lawyers?
1.3   What is the impact on clients?
1.4   What is the impact on PPEP?
1.5   How will success be measured?

2.   Cultural fit
2.1   How does this item relate to and leverage the existing culture of the firm?
2.2   How does this item relate to and leverage the existing traits of lawyers?
2.3   What must be 'broken' and what is the plan to do so?

3.   Design and planning
3.1   How is this project elegant?
3.2   How is this project simple?
3.3   How is this project Wow!
3.4   What are the success factors for the project?
3.5   What are the risks and obstacles and how will they be mitigated?
3.6   What will this project not do?

4.   Behaviors and processes
4.1   What are the required lawyer behaviors for success?
4.2   What are the required management behaviors for success?
4.3   What are the required support behaviors for success?
4.4   What is the impact on existing rules/policies?
4.5   Are there any new policies required?

5.   Cost and resources
5.1   What are the initial setup costs?
5.2   What are the costs for education, launch and delivery?
5.3   What is the annual maintenance cost?

6.   Management and leadership
6.1   Who is the primary sponsor for the project?
6.2   How is governance and quality to be managed?
6.3   How is the project to be maintained?
6.4   How will the project survive departure of the initial sponsor?

7.   Change management and project introduction
7.1   Burning platform: why should people want to change?
7.2   What is the vision for this change?
7.3   Where is the top management guiding coalition?
7.4   What will the early results be to demonstrate success? What are the initial milestones to demonstrate success?

8.   Communications plans
8.1   What is the metaphor for the project?
8.2   What is the consultation process?
8.3   What are the ceremonies and awards?
8.4   What are the changes to rewards and recognition?
8.5   What education and training will ensure success?

9.   Detailed specification
9.1   What is the technology specification?
9.2   What is the relationship to and integration with other systems?
9.3   How are pointers to human assistance embedded in the delivery mechanism?

Figure 7.1. Supplement to project plan: Table of contents

Stage 1: Establishing a sense of urgency. This stage calls for examining the market and competitive realities and identifying potential crises and opportunities.

Stage 2: Creating the guiding coalition. Essential to the change process is putting together a group with enough power and cohesiveness to lead the change.

Stage 3: Developing a vision and strategy. This stage considers creating a vision and developing strategies for achieving that vision.

Stage 4: Communicating the change vision. The new vision must be communicated using every vehicle possible, and the guiding coalition must model the behavior expected of employees.

Stage 5: Empowering broad-based action. This stage considers the importance of getting rid of obstacles, changing structures that undermine the vision, and encouraging risk taking and nontraditional thinking.

Stage 6: Generating short-term wins. Visible improvements, or "wins," are essential for keeping the momentum of the change process.

Stage 7: Consolidating gains and producing more change. By using increased credibility, other systems that don't fit the vision can be changed.

Stage 8: Anchoring new approaches in the culture. Finally, the change must be anchored in the organizational culture to endure. Processes must be developed to ensure continued leadership development and succession.

Kotter's book is a must-read for all of the members of the committee driving the knowledge strategy and should be included in the list of mandatory reading in the supplement to the knowledge strategy. You should also consider adding to the reading list two excellent short books from Tom Peters's "50" series, *The Professional Service Firm 50* and *The Project 50.*[4]

Considering the learnings above, and the previous chapters in relation to culture, the use of technology, and the focus of law firm knowledge strategy, an indicative index of the supplement to the project plan is set out in figure 7.1 to further your thinking.

The Importance of Codeveloping Future Change Processes with Your Lawyers

The success of your knowledge strategy will depend upon the ability of your firm, and the humans that comprise your firm, to make change. Rather than approach change as something you must convince your lawyers to do, a more successful strategy is to generate an environment in which the lawyers not just *expect* change but *demand* change.

From a lawyer's perspective the knowledge strategy will result in a series of change management initiatives, released at different times over the next several years. These initiatives will change the way lawyers work and what is expected of them. If a different approach is used to launch each of the initiatives, lawyers have to spend time first understanding the way in which information is being provided, and then understanding the message. There is a real risk that lawyers will become literally tired of change. Even though they may be prepared to embrace change, the continual nature of change may be greater than their capacity to handle it along with all of the other things on their agendas.

Remember, the legal materials with which lawyers deal are rigorously consistent: the numbering conventions, the layouts, the processes, the way parties are named. Series of casebooks are bound the same way for over a hundred years. Consistency, consistency, consistency is a hallmark of quality in the world of a lawyer.

In order to give your lawyers a greater sense of control over the coming process of change, during the first round of consultations you should develop with them the blueprint for the consistent artifacts and processes you will follow in implementing the codeveloped knowledge strategy. In other words, during the first round of consultations you are specifically asking the lawyers how they would like to be communicated with in relation to the changes that you will create together.

Codeveloping the change process blueprint in the first round of consultations establishes an expectation, and acceptance, that changes are likely to follow, changes that will need communicating to lawyers, and changes that will require modifications to their behaviors and processes.

Do not underestimate the *feeling* of control that this will provide your lawyers. You are involving them both in setting the knowledge strategy and in setting the strategy for how change projects will be implemented.

All aspects of the process of introduction of change are open for input, including:

- *Timing.* Will major changes be announced on a timetable—once a month, once a quarter? A decrease in the random nature of information dissemination gives the lawyer confidence that something has not been changed without being brought to his attention. An irregular blizzard of communications is quickly ignored by busy lawyers.
- *Signaling.* What is the minimum scale of signaling for a behavioral change? For example, e-mail, plus physical message, plus an optional face-to-face session? Should partners be informed and then provide the information in practice group meetings? Should there be a home page with all the relevant information? Are there multiple communication frameworks with messages tailored for different demographics: partners, senior associates, junior lawyers, and support staff?
- *Standard training package.* When system changes are introduced, what is the standard communications package to be received by lawyers? (For example, e-mail, a short, stylish quick guide, online training, or optional face-to-face sessions.) What is the template? What would be most useful?

In these discussions with your lawyers to plan the change management methodology, it is important to be creative. Some suggestions to consider in facilitating the discussion include:

- *Visual notifications*: on posters, notice board, or video clips.
- *Local guru creation*: the nomination of particular individuals within groups to be "up to speed" on all the changes as a local point of reference for the team. Much quality knowledge coworker support is delivered by human interactions with people we know whom we believe can help us. Perhaps your strategy should include the deliberate creation of these helpful, knowledgeable people within the practice teams and let the informal knowledge network work for you as well as formal channels.
- *A knowledge strategy wall chart*: production and printing of a wall chart with *all* of the knowledge landscape, indicating and naming those components that are to be delivered in the future. As each component of the whole is delivered, updated wall charts are produced and circulated, drawing attention to the component that is now available. This strategy is akin to city road maps that show the route to be taken by the new freeway that is not yet completed, but will deliver significant benefits to

travelers, and becomes part of a driver's mental models and reference points even before it is built and open.

- *Physical communications*: regular newspaper-style communications about progress and what is next on the timeline.
- *Quick guides*: one-page guides to understand what is changing and to package help on how to use the new processes.
- *Viewlets*: interactive demonstrations of software or system changes as multimedia tutorials (these can be very cheaply produced using the excellent tool from Qarbon).[5]
- *E-mail*: when to e-mail, and when not to e-mail. What should the e-mail look like—what should the information architecture be? Should all e-mail messages be warehoused somewhere for later review if people delete them along the way?
- *Incorporation of lawyer comments in communications*: user testing and sharing of the reports of that testing with direct quotes in the communication processes so lawyers know what other lawyers honestly think about it before they have to adopt it themselves. This leverages the social nature of lawyers in looking to the views of other lawyers to validate the worth of embracing the change.
- *Lawyer validation for release*: selection of a lawyer or partner from each group to lead a formal signoff process to confirm that the project is ready to release. In reality, you would never present a project for release to these people unless it were 100 percent ready, and so the concept of an additional test is moot. However, such a process delivers in the minds of lawyers an additional validation that their time will not be wasted, and gives you an additional level of lawyers whose names and participation can be leveraged to demonstrate existing confidence in and buzz about the change.
- *Interpersonal support*: plan to increase resources to physically walk around the floors on the mornings of the introduction of any major change. Lawyers like personalized service, and one-on-one training, so they neither have to demonstrate ignorance in front of other lawyers, or waste their time where they believe (rightly or wrongly) that their needs are different from others' in a classroom situation.

Your standard process for introducing change would then be documented during the first round of consultations and included in the draft of the knowledge strategy document that is circulated to all lawyers for comment.

8

Story

The Lawyer's Life in the New World

Tell me and I'll forget; show me and I may remember; involve me
and I'll understand.
—Chinese proverb

One of the key parts of your knowledge strategy document is a story, a narrative of what the life of a lawyer will be like when all of the components of your firm's knowledge strategy have been completed. Such a story serves several purposes and is of significant assistance to lawyers in understanding how all of the components of the strategy fit together, relating them to their current work habits, and internalizing the changes to their behaviors upon which the success of the initiative depends. The story is a major part of the cultural change management program.

The preparation and distribution of this story to the lawyers in the knowledge strategy document is a strategy of both carrot and stick.

The story is a carrot for the lawyers, to see what is possible, to imagine how life would be better once all of the components are in place. It is a carrot to make the lawyers interested in a better future.

But the story is also a stick. It is a stick, not to apply to lawyers, but for *lawyers* to apply to those facilitating and directing the knowledge initiatives and to apply to each other in relation to behaviors. In *The Springboard: How Storytelling Ignites Action in Knowledge-Era Organizations,* Stephen Denning observes that when an audience has heard a springboard story, its members often embrace the ideas within the story *as their own.* For example, a Denning story about knowledge management within the World Bank elicited responses from which it was clear that the listeners had internalized the ideas as their own: "The questions were framed as if knowledge sharing was their idea and not mine. They spoke to me as if they had discovered the idea of knowledge sharing and as if I was the one holding back progress. The idea had already entered their sense of identity."[1]

As discussed in chapter 6, "Preparation 101: Culture Matters!" lawyers are very demanding about the level of support and assistance that they expect their firms to provide. Indeed, lawyers are quite selfish in their expectations of management; they both demand more initiatives to help them and criticize initiatives when they do not quickly understand the basis upon which value is being delivered.

By showing lawyers the view of the New World in the story, lawyers will increasingly become dissatisfied with their current lot in life, having listened to and internalized the story. After hearing the story, they know that a better way is possible, and they can quickly become impatient toward the firm (and the leaders of the firm's knowledge strategy) because it has not already been done.

The objective of the story of the future is to:

- Embed the components of the knowledge strategy in the organizational consciousness
- Establish the language for knowledge strategy, and its tangible and intangible manifestations
- Build the knowledge of the lawyers about what is possible, and what they should expect to receive in the way of support from each other, and the firm
- Build not an acceptance of change, not a *preparedness* for change, but a *demand* for change

In the following pages is a story you may want to think about in writing your story of the lawyer's life in your new world in your knowledge strategy document.

With that introduction, let's read the story of John Porter, a senior associate with our firm in 2005. John is a successful and highly regarded finance lawyer in one of the firm's busiest and most profitable offices. In his own words, here is John's story.

John's Story

My name is John Porter, and I am a senior associate in Kratz Bradbury, a large commercial law firm, practicing in the area of project finance.

They've asked me to tell you a little bit about how we work here at Kratz Bradbury. So I'll tell you a little bit about what happened when I joined the firm, what matters at our firm, and a little bit about two key tools that we all use at the firm: the Online Digest and the Lawyer's Toolbar. I don't have time to cover everything the firm does on knowledge, because frankly it's just a part of how we work—embedded in everything, from our advice to our internal processes. But I will give you the highlights that make a difference for me as a lawyer.
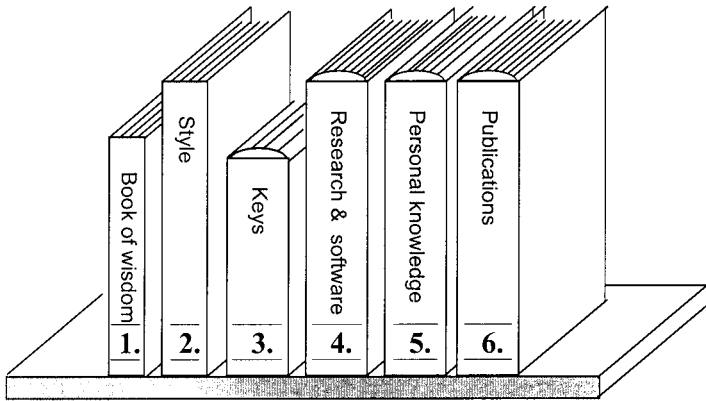
Figure 8.1. The Knowledge Bookcase

When I joined the firm six years ago I had been told during the recruitment process that a lot was happening in knowledge strategy, and I was a little skeptical. But during the interviews I met a senior associate, David, who motioned for me to sit down in the visitor's chair in his office.

David swiveled his laptop around and said, "Watch this," flashing me a broad grin, and he took me through how he could leverage the knowledge of the entire global firm, receiving summaries of the day's legal and commercial news complete with links to all the sources. He was infectious: "The support here is just unbelievable." I wanted to be just like him, and his infectiousness is a large part of why I joined the firm.

In my first week at the firm I received a collection of volumes and some interesting training. Training and knowledge here are quite different from anything I have ever seen before.

The volumes I received, which now sit on a shelf in my office, and everyone else's office round here, really make a difference in the way I do my work and how I build my skills as a professional. We're supposed to call them the Knowledge Bookcase, but we mostly just call them the bibles. There are several numbered volumes in the set, very professionally produced, and with some great ideas and content. I can honestly say it was not what I was expecting to get from a law firm!

I will always remember the process to get my set of the bibles—I had to meet the managing partner of the office. An appointment appeared in my electronic diary to see the managing partner in her office in my first week at the firm, for fifteen minutes, and my heart was pounding. The subject of the diary appointment was "Welcome," but I was nervous anyway!

I made sure I was early, and I waited outside her office for her to finish a phone call and invite me into her office. She introduced herself, spoke

about the firm and its values, what she wanted for me, and what she expected from me. Then she took me through my set of the Knowledge Bookcase, which already had my name on it. She put her hand on the books, looked me squarely in my eyes, and told me she expected me to read them, and to learn from them.

That was good enough for me! I have never forgotten that conversation. There are six volumes in the set, as you can see in figure 8.1:

Volume 1: *The Book of Wisdom*
Volume 2: *The Style Guide*
Volume 3: *The Keys: Our Taxonomies*
Volume 4: *Research and Software: What You Need to Know*
Volume 5: *Personal Knowledge Companion*
Volume 6: *Firm Publications Folder*

Volumes 1 to 4 are actually library books, which are loaned to me during my career with the firm. Let me tell you a little more about each of the volumes.

Volume 1: *The Book of Wisdom*

The Book of Wisdom is a hardcover book published by the firm, full of great stories and anecdotes from partners and lawyers at the firm, as well as short stories about the firm and its clients. The book was written by a leading business journalist the firm engaged to interview partners and lawyers and to put the book together. It's quite a compelling read, not a dry story at all.

There are chapters in the *Book of Wisdom* about writing, promotions, performance appraisals, and how to manage large deals, clients, and relationships.

The early chapters of the *Book of Wisdom* outline the firm's values and mission statement. Our values are taken very seriously in the firm—the chapter on values is sacrosanct.

Many of the stories have stayed in my mind and have helped me spot trouble, and opportunities, early on. It meant that when I got into tricky situations there was something in the back of my mind keeping me out of trouble. Remembering the stories really helped me—it was as if I already knew some of the ropes!

I actually turn the pages of the *Book of Wisdom* a couple of times a year, just skimming through, and I always find at least one nugget that makes me reflect and learn something new to be a better lawyer and a better professional. Even better, several of the stories in the book of wisdom are augmented by videotaped interviews with senior practice leaders describing their experiences, which are accessible on our intranet or packaged as a set of DVDs that can be borrowed from the library for viewing at home or at work.

Volume 2: *The Style Guide*

The second volume in the Knowledge Bookcase is *The Style Guide*. It's an impressive hardcover book that contains the blueprints for all of the types of documents we produce at the firm. We produced the volume in hardcover because the structures of our documents do not change very often—generally only when a significant rebranding exercise occurs at the firm.

It outlines style, language, and structure conventions for all of our documents and presentations. Just reading this and turning the pages was a great introduction to the kinds of things that I would be producing over my years with the firm.

Also included in the *Style Guide* are some great example documents that gave me a feel for the way the best lawyers at the firm wrote documents. They were a great model for an eager young lawyer, and I still refer new lawyers to them.

The *Style Guide* also discusses how we should write and structure material thinking about our client reader, and also thinking about subsequent readers of our documents *at our firm.* Part of the firm's knowledge strategy involves leveraging prior advice and work, and so we write our documents with clear identification of distinct issues, inserting structural signposts in the document to make clear where the issue is being addressed and the knowledge recorded. This method of writing and structuring makes the job of subsequent classification and review much easier and makes it much easier to quickly read the work of others when doing research. It also results in a much clearer document for the client!

We do so much onscreen editing these days that you just *have* to know how to efficiently produce documents in firm style; otherwise your documents can quickly become a mess. Numbering schemes, for example, can be quite sophisticated, like paragraph numbering—much more structured than I ever did at law school! It takes a lot of time and cursing if you don't know what you're doing, as well as making you look stupid to your clients, and the secretarial and support staff if your documents get everything wrong.

The firm has created toolbars and menus in Microsoft Word to make it easy for me to create and edit documents consistent with our firm style. When the document styles are discussed in the *Style Guide* they have little pictures to show you what buttons to press in Word to get the right style. Couldn't be easier. You would be surprised how much time we save by having the correct format from the beginning rather than reinventing the wheel all the time!

Because most everything I produce is an electronic document, this book was a really useful companion during my first six months, and I still refer to it from time to time to make sure I am doing the right thing, or to help younger lawyers learn how we do things around here.

It was strange—after a couple of months I became so used to writing using firm style that when I read less structured material from other sources I

was actually frustrated that they had not spent the time to get the document structures right! I have even heard stories of some lawyers around here writing their grocery shopping lists in firm style—but that's going a bit too far for me!

Volume 3: *The Keys: Our Taxonomies*

The third volume in the Knowledge Bookcase is the *Keys* volume.

One of the core values of our firm is that we leverage our *collective* expertise for the benefit of our clients. "Our clients are entitled to our collective expertise"—that's one of the firm's values that was drummed into me early on. And the firm lives by this simple phrase.

Whenever we start work, even if we know the area, we check to see what the latest knowledge is on the issue *within* the firm. Always. The only way we can do this is by using what are called taxonomies, which is a fancy name for categories. Everything at the firm works on these standard taxonomies, and the *Keys* volume holds the keys to the firm's knowledge city.

Unlike the *Book of Wisdom* and the *Style Guide*, volume 3 is a ring binder, and the pages are regularly updated by the firm as we get involved in new types of work, and new items are added to our categories.

There are actually four taxonomies that are the keys to the knowledge kingdom, and each of them has a separate tab in the *Keys* volume. They have done it really well, too, so you do not have to know exactly the right word for what you are looking for. There are many "see also" entries in case you do not know the right term first off.

The four tabs for the different taxonomies in the *Keys* volume are:

Tab 1: Matter Types
Tab 2: Document Types
Tab 3: Legal Issues
Tab 4: Legal Expertise

The pages behind the tabs are like a dictionary, an alphabetic list. A typical entry provides three things, the name of the item and then two references that relate to how to find information about the topic in the firm's Online Digest. The Online Digest is one of the cornerstones of our digital knowledge strategy, and I will tell you more about it later.

The two references you get in the entry about the Online Digest are the *path* to find information about the topic in the Online Digest (to drill down to it) and its *reference number* (so you can search directly for the reference number if you so choose). The path enables me to drill down through the categories to see where it is located within the other topics that may be relevant. Alternatively, I can get straight to the item by typing the reference number (like M14.234) into the Digest.

Figure 8.2 provides examples of the following types of entries in the Digest:

Matter entry (Tab 1):

> Reduction of capital
> > Litigation > corporate reconstructions > reduction of capital
> > M14.234

Document entry (Tab 2):

> Part A statement
> > Corporate > takeovers > Part A statement
> > D23.543

A legal issue entry (Tab 3):

> Continuity of ownership test for group losses
> > Tax > Losses > grouping > continuity of ownership
> > T43.543

> Grouping of tax losses
> > See
> > Continuity of ownership test for group losses T43.543
> > Continuity of business test for group losses   T678.434

A legal expertise entry (Tab 4):

> Aviation leasing
> > Finance > aviation leasing
> > S23.345

Figure 8.2. Examples of entries in the *Keys* volume

- A matter entry you would find behind tab 1
- A document entry you would find behind tab 2
- A legal issue entry you would find behind tab 3
- A legal expertise entry you would find behind the final tab

The references in the entries in the *Keys* volume, like the path "Finance : aviation leasing" or the code "S23.345," let you navigate the Online Digest. The Online Digest is a key part of our knowledge strategy, and it works just like an online book—not like a database. Once you know where something is in the Digest (with the path or the reference), when you look it up online you get a structured entry like an encyclopedia item. You navigate your way to what you want either by drilling down a path, like in figure 8.3, or by searching directly for the reference number for the particular item.

Figure 8.4 provides an example of what an Online Digest entry looks like for a type of matter, "reduction of capital." These entries provide a tre-
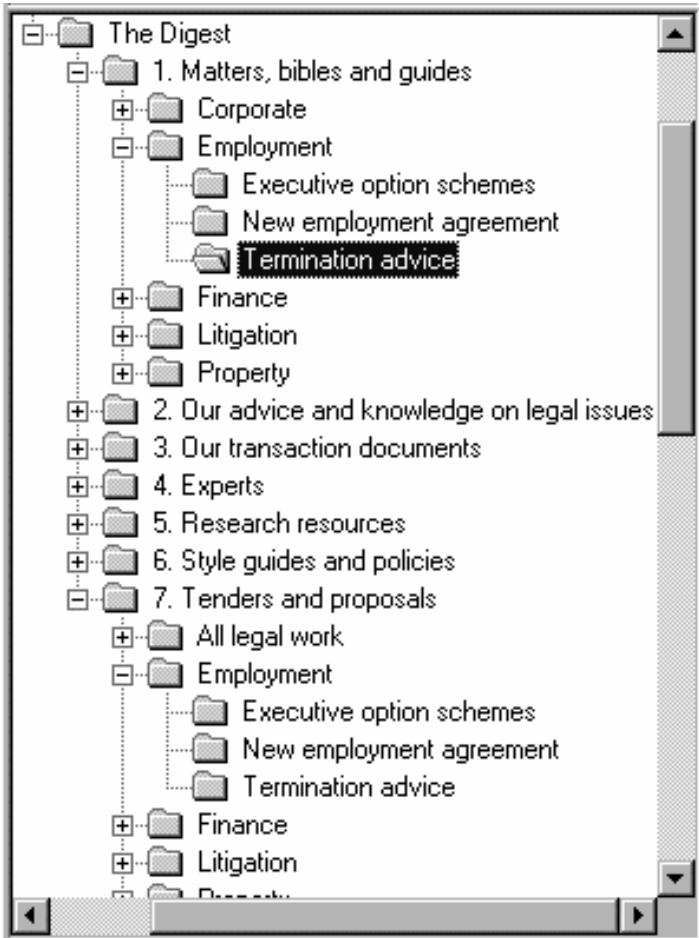
Figure 8.3. Drilling down the structure of the Online Digest

mendous head start in an unfamiliar area and provide a great way to update yourself on the latest work and knowledge in the area anywhere in the firm. It's also a tremendous help for junior lawyers.

Let me tell you how I use each of the four tabs of the *Keys* volume, and in particular, how they interact with the firm's Online Digest.

The Matter Type Tab

As a law firm, we do a range of matters for our clients, and we are constantly looking at previous matters of the same type for all sorts of things. For example, I use the matter tab when I am looking for matters similar to the one I am

working on, to either get information about legal issues and documents, or information about the costs and fees on similar matters we have done before.

The matter tab is also extremely helpful when we are pitching for work—to be able to get details of the firm's experience and credentials in that type of work, and to know what these types of matters have previously cost.

The matter taxonomy is used in three distinct places within the firm, as indicated in figure 8.5. It is used for:

- The structure and navigation of the "Matters, Bibles, and Guides" section of the Online Digest
- The structure and navigation of the "Tenders and Proposals" section of the Online Digest
- The classification of matters in our practice management or accounting system

By classifying matters in the practice management system using these categories, we can get financial information about past matters and also put information together for external surveys that happen from time to time. Without properly classifying our matters, we would need to do all sorts of manual processes and one-off internal surveys in order to respond to the third-party surveys that are used for published league tables that rank law firms—which are very important for marketing purposes.

When we get a new matter for a client, the matter initiation process requires that we put the right code for the type of matter on the form. So, you are using the *Keys* volume whenever you start a new matter throughout your career with the firm. To help us, there is a list available onscreen of the codes for the last fifty types of matters that you have opened, and the code you want is usually on the short list.

This standard list also means that you can easily review the type of work you have done, and the work you want to do, during your performance appraisal. Just before appraisal time you get a report of the types of matters you have been doing, the types of documents you have created, the legal issues you have written documents about, and the areas in which you are internally recognized as an expert. It's a great way to talk with your supervising partner about the work you have been doing!

The Document Types Tab

We produce a wide range of legal documents for our clients, and this tab is the one I use most. I use it when I am looking for previous examples of legal documents, where the firm has not created a precedent or a template for the particular document I am trying to create.

When I have to produce a document for a client, say a shareholder agreement, I use the document type tab in the keys folder to get the number for shareholder agreements. I then open the Digest on the computer and type in the number and I get the entry in the Digest for shareholder agreements.

Reduction of capital

Litigation > corporate reconstructions > reduction of capital
M192.342

Last updated: 20 Feb 2002
Editor: John Harmer, Melbourne

References:
Taylor, 'Corporate reconstructions'
Ford 'Corporations Law' chapter 10, paragraph 5-10
Corporations Law, section 324
For forms and practice see Williams (Vic), O'Reilly (NSW)
Jones v Smith [1987] ACLR 293

Precedents:
We have a precedent document set for reduction of capital transactions.
See Precedent 408.

Common documents:
All of the documents below are contained in Precedent 408.
Application for reduction of capital – Form 6
Letter to creditors
Affidavit of debts
Newspaper advertising

Complex legal issues
Nil

Experts:
John Harmer, Melbourne
Paul Jones, Sydney

Comments and description:
A reduction of capital is a court-sanctioned procedure
whereby a company is permitted to reduce capital by
cancellation, or capital return to shareholders. The
procedure includes prescribed advertising and
affidavits from major creditors. Often as an
uncontested application before a Master of the Court,
the Master will require strict adherence to all formal
requirements and incomplete applications, even in
the smallest details, will almost always be adjourned
until the defect is cured.

Unless creditors contest the reduction of capital, or
for a prominent company, the court appearance
would normally be performed by the solicitor and a
barrister would not be briefed.

Firm history - summary:
We have done a range of successful capital
reductions for clients, generally 12 or more a year.
Instructions for a capital reduction are normally
received by our Corporate lawyers, who liaise with
litigation lawyers in relation to the documents and
court process.

Figure 8.4. An entry in the Online Digest

Firm history – details:

Date	Client and matter	Reference
Jan 2002	Acme Limited Reduction of capital Penny Wines, Sydney	113-456-456
Dec 2001	Summer Days Limited Reduction of Capital John Harmer, Melbourne	545-444-665
Jun 2001	Booster Limited Corporate reconstruction Paul Jones, Sydney	545-151-546
May 2001	Harris Limited Reduction of capital Joan Davis, Sydney	555-444-566

See also:

Share buybacks
Corporate > corporate reconstructions > share buybacks
M00045112

Schemes of arrangement
Corporate > corporate reconstructions > schemes
M00045422

Voluntary liquidation
Corporate > corporate reconstructions > voluntary liquidation
M00045421

Narrower topics:

Nil.

Figure 8.4. (continued)

There I find a discussion of shareholder agreements, and links to all of the shareholder agreements the firm has done over the last four years. Of course, I could also navigate through the Digest using the categories if I wanted to. Figure 8.6 shows how the transaction documents part of the Online Digest is structured.

It is quite an incredible resource, but without the document types tab in the *Keys* volume I would be pretty lost trying to find the information.

The Legal Issue Tab

When I have advice to do for a client, the first question I ask is whether the firm has looked at the issue before. If we have, I know that I will be able to find an entry in the legal issues tab.

Say I was looking at the operation of the antitrust provisions to a particular industry. I can look up the tab and get the reference number for the issue, and then find that issue in our digest. When I go to the page in the Digest for the issue, I get a discussion of the issue, links to library or other sources of

1. The structure and navigation of the Matters, bibles and guides section of the Online Digest

2. The structure and navigation of the Tenders and Proposals section of the Online Digest.

3. The classification of matters in our practice management/accounting system.
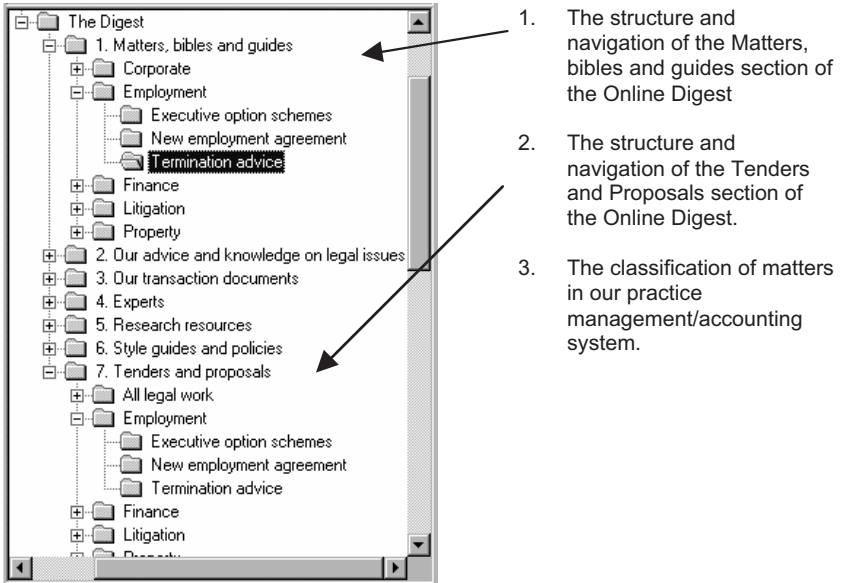
Figure 8.5. The three uses of the legal expertise taxonomy

information, and a list of the work we have done before, complete with the names of the lawyers that were involved.

It's a great place to start, and a resource that is better than any of my friends at other firms have. What's different here is that the Digest it is not a database of documents, so it's not like I get a thousand hits and have to work through them all one by one myself. The firm uses a digest approach with links to documents. The value is in the Digest entry, saving me enormous amounts of time and making sure we deliver on our promise to our clients: "Our clients are entitled to our collective expertise."

We even have a couple of example entries in the Digest to demonstrate to our clients, so they can see how we approach knowledge at the firm without disclosing confidential information. I love to demonstrate it to them because it blows their socks off every time—it's so simple, makes sense, and isn't some mystical expensive technology. I'm a little naughty, though; I tease them to ask their other law firms about how they *actually* leverage knowledge for clients, rather than what they *say* they do: "Ask them to show you *exactly* how they use it, get them to find some of your more important advices in their system."

Seriously, though, the quality of the Digest *depends* upon all of us lawyers, indicating when we have finished the documents on which we're working. When an advice document I have created goes to a client, or a research memo I have written is finalized with a partner, I tell my secretary to mark the document as *finished* in the document management system. After that, the firm
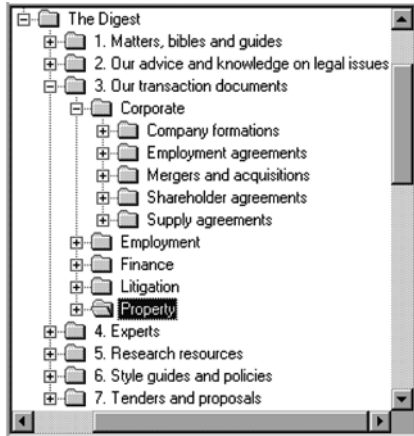
Figure 8.6. The Transaction Documents component of the Online Digest

reviews and allocates documents that have been marked as finished. Our Digest people do a great job, and there is a pretty quick turnaround time from finished document to incorporation into the Digest.

Lists get circulated in the firm of the unfinished documents which you've created, and you have to mark them as finished or abandoned pretty quickly or you get a visit from the managing partner. They take this very seriously because it is the lifeblood of the organization. Our clients are entitled to our collective expertise, and if my colleagues in another office cannot take advantage of my recent efforts, then I am letting them down and letting our clients down.

The Legal Expertise Tab

The final tab in the *Keys* volume is for legal expertise, which I often use to find out who in the firm has expertise in particular issues. You find that the longer you are with the firm you begin to build your own knowledge of the people you can call upon for particular assistance, but when you come across new issues you are often reaching for the *Keys* volume to see if you can find an expert. This list is not as detailed as the one for legal issues, because experts in an area are usually experts across all of the legal issues in an area—it's a smaller list.

One of the measures on the annual performance assessment is whether you are a recognized expert within the firm on an area of law and featured in the Digest. The head of the practice group makes the decision on who is listed as an expert, and when I was listed as an expert in company reconstructions I started to get work from all over the firm, often from people who I had never met before, on really interesting transactions.

Volume 4: *Research and Software: What You Need to Know*

The next volume in the Knowledge Bookcase, *Research and Software*, is also very practical, and like the *Keys* volume, it is a ring binder with tabs. Updates do not occur as often for this one as they do for the *Keys* volume.

There are two principal sections, "Research" and "Software." Specific elements of each of those are:

Research
- Common research strategies
- Services available from the library
- Cases
- Legislation
- Bills
- Regulations
- Articles
- Web sites
- Our Online Digest

Software
- E-mail (Outlook)
- Document management
- Documents (Word)
- Presentations (PowerPoint)
- Spreadsheets (Excel)
- Internet
- Intranet
- Recording time
- Billing

Each of these sections follows a consistent format and the emphasis is on distinguishing between the information *I need to know,* and the information *I need to know exists* in the volume as reference material.

For example, most of the basic research tasks are clearly marked as "need to know," and I am expected to know these. However, research sources that are not commonly used are marked as "need to know this exists." For software, it's the same principle; the pages clearly mark the specific things and functions that I need to know, as opposed to the information that I need to know exists so that I can find the information in the materials later when I need it.

The material is very well written from a lawyer's perspective, focusing on what we have to do. It is also well illustrated, and it helped me get up to speed on what to do.

At the back of each of the sections are laminated one-page quick guides showing commonly used functions. The ones I most often use I took out and pinned to my wall.

If you use special software, like litigation support software or online deal rooms, you are given additional material to file in the volume that outlines what you need to know about using those applications.

Volume 5: *Personal Knowledge Companion*

Volume 5 is the hardest to describe, but it has been a very helpful volume for me. The *Personal Knowledge Companion* is what the firm describes as the first limb of its knowledge strategy—*personal knowledge strategy.* Like the *Research and Software* volume, this volume always makes a clear distinction between the information that I need to know, and the information that I need to know exists.

Here's a list of the tabs that are in this volume. I have marked the ones that were completed by the firm before I received it:

1. Values and Beliefs

   - Firm Values (completed)
   - My Personal Mission Statement (Guidance Notes)
   - My Values and Beliefs
   - My Goals

2. Knowledge to Know

   - The Knowledge I Need to Know (completed)
   - Books I Need to Read (completed)
   - Books I Have Read and What I Learned
   - Introductions, Conversation, Listening, and Follow-Up (completed)

3. Knowledge to Know Where to Find

   - Articles I Have Written
   - Information I Refer To
   - Inspiring Quotes for Reflection
   - Personal Administration Information
   - Important Dates to Remember
   - Resources Knowledge Map (completed)

4. My Knowledge Update Strategy

In other words, the firm had already completed several sections specifically outlining the knowledge that the firm thought I should know to be an outstanding finance lawyer at the firm. The knowledge covers legal and non-legal skills and is expressed as a series of questions I need to be confident I am able to answer positively.

For each question, a source of information for study is provided so that I can source the information. For example, one of the questions is:

> *Do you know the rules in relation to insider trading, and have you read Jones v. FAI and Hughes and Anor v. Thomson?*

When I first saw the list I was daunted—there were a lot of things I was supposed to know, and I certainly did not know them all. But the great thing was that it gave me a very clear idea of what I needed to learn and what I needed to focus on. Different lists have been created for lawyers in each of the different practice areas to reflect their different areas of practice, although I think most of the nonlegal skill material is common to all lawyers.

It was strange to see that the partners in my group had put together a reading list for me, which included both legal and business books. I felt a little like Tom Cruise in the movie *The Firm* on his first day at the office, when other lawyers kept visiting his office and dropping off the volumes he would need to read for the bar exam, with a cheery, "You know that no one from the firm has *ever* failed the bar exam." You know the scene—his desk ended up in this huge pile of thick volumes.

Under "Books I Have Read and What I Learned" I record details of books and articles I have read and note down things that I have learned from those materials that I want to remember. During performance appraisals, you are expected to share and discuss this information with your supervising partner.

The next item, "Introductions and Conversation," struck me as really strange when I was leafing through the volume. Why is my law firm telling me how to talk? I already knew how to talk. Well, this item helps us to think about how we introduce ourselves in different contexts to make conversation flow, how to introduce each other in business and social contexts, and how to listen. Throughout my formal education I certainly had never read anything about how to make conversation, or how to make introductions, or how to listen.

I had thought that either you were good at talking and relating naturally, or you were bad at it for life.

Knowing the basics of introduction and conversation in a structured way, however, has made a real difference in the quality of my communications with other people in professional and social contexts and certainly has given me much greater confidence. This is not the firm making clones—it is about communication skills. The firm makes clear that we are in the business of helping people, and that as lawyers at our firm we are expected to be able to sensitively and intelligently deal with people—not just know the right legal answer for named parties in a law school case study. Indeed, in surveys of law firms, our clients always comment on how good our firm is at listening, being responsive, and communicating. It really makes a difference to who we are.

Volume 6: *Firm Publications Folder*

The final volume of the Knowledge Bookcase, volume 6, is a folder containing a set of the firm's publications in my area of practice for the last two years.

The managing partner explained to me that I should read all of the publications in the folder. In future, I would receive a copy of publications sent to clients for my practice area, and I should read them, talk to clients about them, and file them in the folder for reference.

Friends of mine at other law firms are no longer sent physical copies of their firm's publications. In some firms, as a result of a cost-reduction drive, lawyers now receive only electronic copies of the firm's publications, which they do not have time or inclination to print out and read—so they don't get any intellectual or marketing value out of the publication. Doesn't make sense to me—when the documents arrive on my desk I always make sure I read them and call the relevant clients.

In fact, when the publications arrive at my desk, they arrive with a little planning worksheet attached for me to plan and execute calls to at least ten clients. That is what is expected of me.

So that's our Knowledge Bookcase, a collection of six physical resources, each with a specific purpose, sitting together on the shelves of all of the lawyers of the firm. I would be lost without them. Not very sexy, not a lot of technology, but very, very useful.

That's what the firm gives me; now I'll tell you what I have to do to make sure it all works.

There are seven things I need to do as my part of helping other lawyers, and the firm:

1. *Talk often*: I talk constantly with others about what they are doing and what I am doing.
2. *Participate hard*: I am an active participant in my community of practice (biweekly practice team meetings).
3. *Open right*: I make sure that matters are opened with the right matter category (or get new categories created where necessary).
4. *Write right*: I write documents in firm style, with appropriate knowledge pointers in the body of the text.
5. *Finish right*: I mark in the document management system when I have completed (or abandoned) documents I have created (using a checkered-flag button I'll tell you about in a minute)
6. *Close right*: I prepare transaction bibles when matters requiring transaction bibles are completed.
7. *Think share*: Every day I consider if I have learned something that is of value to others, and I either tell them or send a short e-mail with that knowledge to the "knowledge" e-mail address at the firm for broader consideration.

That's it. Just seven things. We *all* do these things, and we can list them from memory.

Talk often.
Participate hard.

Open right.
Write right.
Finish right.
Close right.
Think share.

Now, I said before that our firm's knowledge strategy has three dimensions:

- Personal knowledge strategy
- Interpersonal knowledge strategy
- Impersonal and digital knowledge strategy

Let me tell you a little bit about each of those.

Personal Knowledge Strategy

Our *personal knowledge strategy* revolves around helping me be the best lawyer I can be, which is all about what I know, the skills I have, and how I manage the information that I have.

The *Personal Knowledge Companion* (volume 5 of the bookcase) is a part of the firm's personal knowledge strategy. In the *Personal Knowledge Companion*, the firm has invested a significant amount of time in being very particular about the knowledge I need to have to be a successful and outstanding lawyer. It's a specific roadmap to success.

The firm has also taught me how to increase my reading and listening skills, to improve my memory, to consider different ways of thinking in approaching problems, and to develop other parts of my intelligence. It was really quite different—a lot of it was unlearning bad habits from law school. I actually wish I had known these things, and had these skills, before law school—it would have made things a lot easier.

I clearly remember what the managing partner said to me during my first week when she gave me the volumes. "The difference," she said, "between you and your partner is what is in the brains of each of you. You can either wait and hope for experience and the passing of years to develop your most important asset, or you can take personal responsibility and take the fast track. I want you to take the fast track, and I want to give you a road map."

Interpersonal Knowledge Strategy

Our *interpersonal knowledge strategy* is about how we develop our own knowledge, and project our knowledge to others, in interpersonal contacts.

Other people at the firm are our most valuable resource—each mind at the firm is better than several thousand of today's fastest computers.

There are both formal, and informal, elements to our interpersonal knowledge strategy. The formal element is regular and structured practice

team meetings every two weeks. These meetings are considered as important as client meetings, and you have to qualify to be a leader and convener of these meetings—leadership of your practice team meeting is a prestigious and valued role within the firm. The qualification process includes technical evaluation by the partners in your group, and a training program about how to effectively and efficiently create, maintain, and deliver value from a community of practice. To assist, the firm has produced first-class guidance, readings, and materials for leaders of communities of practice. In most of the groups, the leaders are ambitious junior partners or lawyers who are going to be admitted to partnership within the next year or so.

The informal part of our interpersonal knowledge strategy relates to building the skills of our people in engaging in social discourse. Mandatory training programs at the firm include listening, conversation skills, introducing yourself and colleagues in different contexts, and networking. These courses are very intensive, and I have strong memories of when I did the course on introductions—I thought, "How hard could this be?"

And then they put me through a range of professional and social situations, videotaping me, where I had to introduce colleagues at the firm, as well as people I had just met. I really had to pay attention to people's names to make sure I got it right. It was quite different successfully introducing a colleague from my firm in my practice area and presenting a partner from another area of the firm whom I did not know. The value of the videotape and review was that I was coached on how confident I was coming across, how well I represented the firm, and how much I assisted the person I was talking to in providing conversational linkages.

My first effort was horrible: "This is Bob Jones from litigation," followed by the inevitable (and familiarly uncomfortable) silence.

After coaching, my last effort was fabulous:

"John, let me introduce Bob Jones, one of our leading litigation partners. Bob has represented a wide range of Fortune 100 clients in difficult environmental litigation over the last decade and was recently recognized by the Bar Association for his leadership in working with government to achieve a workable environmental remediation framework.

"Bob, let me introduce John Hamilton from Granger Enterprises. John has been the chief executive of Granger since the merger with Harrington in 1995, and we have acted for Granger since the merger."

What was different between the two attempts was the coached knowledge in my head about how to manage an introduction, and to assist the flow of conversation. I have never forgotten the picture of me on the videotape during my early attempts—I was anything but the professional, confident, and effective professional I wanted to be. In some ways, the pain of seeing my poor performance inspired me to put the effort in during the training.

It was also the first time I encountered a unique style of training at the firm. I had to perform in the various scenarios, being videotaped, before any of the coaching or training occurred. Normal programs have an element of

teaching or training, and then a case study or role play. But with these, the focus was on assessing current competence, and then specifically coaching to improve that level of competence. It was very powerful for all of us to see plainly, and acknowledge, our existing level of skill and determine that we wanted to improve.

When we get together for a few drinks, one of the famous stories is how I performed on the first case study for working a room—I was the classic wall-flower—even when I was trying really hard. I had got a drink from the bar, food from the table, and was taking a bite when two ladies came up to intro-duce themselves. As I tried to shake hands I dropped the food on the floor and spilled the drink over their dresses and made matters worse by attempting to mop it up. And then, the one business card I had to exchange had been in my wallet far too long and was crushed and stained. I have the tape, but my friends have long memories!

Probably as a result of this painful experience, I always make sure that lawyers working for me are booked into the first available classes for the training on listening, conversation skills, and introducing themselves and colleagues.

Impersonal and Digital Knowledge Strategy

The last dimension of our knowledge strategy is our impersonal and digital knowledge strategy. This is about the external-to-brain resources created by, or sourced by, the firm.

We have four limbs to our digital knowledge strategy, the Online Digest, the Toolbar, the intranet, and of course, the library. We have a map of what is available in each of these, and a summary is in table 8.1.

Table 8.1
Key digital knowledge strategy elements

The Online Digest	The Lawyer's Toolbar	The intranet
Matters and bibles	New documents	Virtual concierge
Documents	Precedents	People database
Legal issues	Clauses	Clients and mailouts database
Expertise	Execution clauses	Library database
Research	Forms	Classified advertising
Style guides	Résumés	Job board
Tenders	Tender clauses	Policies and procedures
	Link to the Digest	Client arrangements and teams
		Group home pages
		Online taxonomies
		Online training
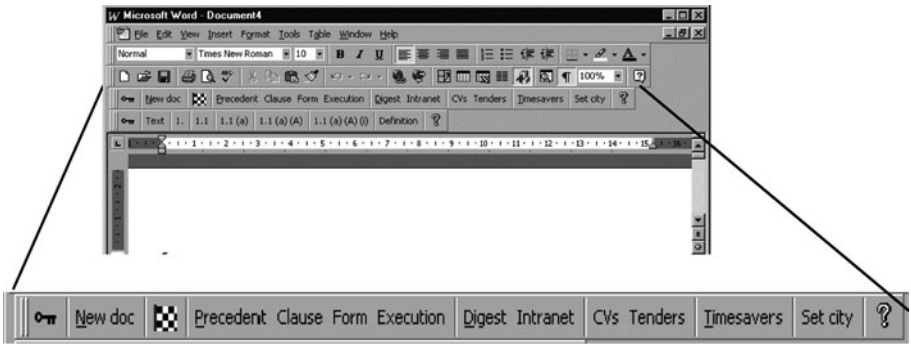
Figure 8.7. The Lawyer's Toolbar

I've already told you about the Online Digest; let me introduce you to the Toolbar. The Lawyer's Toolbar is a special toolbar that the firm has created that shows up in Word. It is the lawyer's equivalent of the Swiss army knife. A picture of the toolbar is in figure 8.7.

I use the Toolbar all the time, and I was able to use it even before I got the training for it because it's so easy. Also, because it just shows up when I open Word, I couldn't help but go exploring and press all the buttons! Let me tell you what each button does:

The Key Button

The key symbol appears on anything that is related to our knowledge program—it's like the brand of the program. If I press this button I get a little message about the name of this toolbar, why it was created, and the people who were a part of putting it together and maintaining it for the firm.

The New-Document Button

The new-document button enables me to create a document in the right firm styles, like letters, faxes, agreements, litigation documents, and so on. Depending on the type of document I select, I am asked for information required for that type of document, like name and address for a letter, or party names for a legal agreement. I can even press a button to look up the names and addresses in my contact directory in Outlook, rather than retype the information. I also put in the name of the client and the matter number, which are then stored in the document management system for the new document I am creating.

When I am finished, the document profile is automatically completed in the document management system, the document is created, and the information I have provided then automatically prepares and completes the new document, ready for me to start work.

Depending on the type of document I create using the "New doc" button, a specific second "helper" toolbar is added to Word (see figure 8.8). For example, if I created a legal agreement, the helper toolbar shown in figure 8.8 would be automatically added to my toolbars in Word to give me the right numbering style consistent with the firm style for the particular document.

Just like in the main toolbar, there are the consistent elements of the key at the front and the question-mark help button at the end. The other buttons help me work with the numbering scheme of the particular document. In this case, the numbering scheme that we use as a firm is shown in figure 8.9. As you can see, there are five complicated levels, each with their own numbering and indent requirements. With the numbering toolbar, it couldn't be easier to impose them. All I have to do is press the button that has the numbering level that I want to give to the paragraph my cursor is in. That's it, press the button, everything is set, and all of the numbering in the document adjusts.

If there is a second or following paragraph of a numbered clause, and you want the same indents but not a number beside the start of the paragraph, all you do is click the button for the numbering again and the number disappears, but all the indenting is right.

You use the definition button when you are defining a term in the definitions section of your document, which sets the right indents, boldface, and so on for the defined term according to our styles.

Using the new-document button is the only way that people around here create documents. Anything else is just so much harder, and doesn't give you the helper toolbar for numbering—it doesn't bear thinking about.

The Checkered-Flag Button

The next button on the toolbar is the checkered flag—I mentioned this earlier. When I finish a document, I press this button to indicate that I have completed the document.

We create thousands of documents a day in the firm, some of which are never completed, some of which are very important. To live up to our value "our clients are entitled to our collective expertise," we *must* be able to indicate what documents are finished in order to be able to leverage our developing knowledge. This means that I take personal responsibility in relation to my documents, as does every other lawyer in the firm.

Pressing this button opens a dialogue box with four options as shown in figure 8.10. On this screen you then mark whether the document has been abandoned, is a continual working document, is finished but is not advice
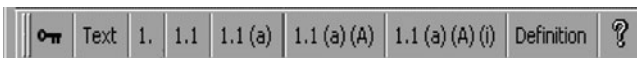
Figure 8.8. The Numbering Toolbar

1. **Clause heading**

1.1 First paragraph of the clause 1.1

    Second paragraph of clause 1.1, which does not need a number, but has two subparagraphs:

  (a) The first of which has one paragraph

  (b) The second of which has two subparagraphs:

    (A)   The first of which has one paragraph

    (B)   The second of which has two subparagraphs:

      (i)   One

      (ii)   Two

Figure 8.9. Our firm's numbering scheme

(like a report on a matter, or other process-related communication), or is finished and approved. Selecting any of these options means that the document will no longer show up on your unfinished-documents report.

It's not hard, it doesn't take much time, and the payoff in the Online Digest that we all use is huge. Our clients are entitled to our collective expertise, and this is what I need to do to make sure that happens. It's just the way we work around here.

When a document is sent to the client, my secretary knows that she has to click this button for the document. Each night, the Digest people automatically scoop up all of the completed documents for review and incorporation into the Online Digest. At performance review time, one of the reports that I discuss with my supervising partner is the work that I have done and finalized, and the Digest people send my partner a report of all of the documents that I have finished for incorporation in the Digest during the year.

I have heard that some people have been held back from promotions in the firm if they do not ensure our clients can use our collective expertise by marking their documents as finished. It's taken that seriously.

The Precedent Button

I use the Precedent button when I am looking to use a precedent for a transaction document that the firm has created. The firm has created a range of high quality precedents, complete with variables, and notes on use, for the common legal transactions that we do. There are about five hundred of these, including all of the court forms in the various places in which we practice.

Selecting a precedent is really, really easy. You first pick your practice area—and it defaults to yours anyway. Next you pick from a short list of cat-
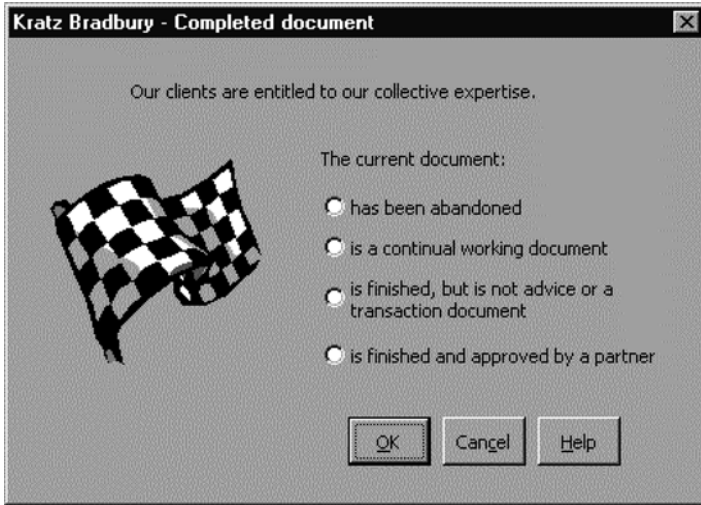
Figure 8.10. The completed document dialog box

egories of documents for that practice group. I am in finance, so the list of categories includes:

- Eurobond issues
- Mortgages
- Project finance
- Secured lending
- Syndicated facilities

When I click one of these, a short list of precedents that we have in that category is displayed—there are usually only a couple of documents for each category, so it makes for fast selection. When I click on the name of the document I want, a copy of the precedent is created for me to work with. It's that simple.

No searching for documents and reviewing hit lists. No launching other software—it all happens right within Word, in just three clicks, with no typing! When new precedents are created, they are added to the menus and options for us and become used immediately. It's extremely powerful, and really simple. There's a text-search option available as well, but no one I know uses it.

We also have some specific precedents for specific clients. In the same way you select a practice group, you can also select the "clients" option, which then gives you a list of client groups and documents that have been created as templates for those client groups.

The Lawyer's Toolbar is a way the entire firm shares its knowledge. Once added to the toolbar, a client document or precedent is easily available

throughout the entire firm, every office, every desk—no searching, no hit lists, just first-rate documents that have been approved by the firm.

The Clause Button

The next button is for clauses. In drafting legal agreements, there are a range of common clauses and definitions that I typically use. The firm has created standard language for each of these, which can be easily incorporated into the document I'm working on by pressing this button. All I do is position the cursor in the document where I want to insert the clause or definition, click the Clause button, and then pick the name of the clause or definition I want. Sometimes there are short and long forms of the same clause, and I can preview those to choose which one I want to put into the document I am working on.

As you would expect, there is a collection of legal research and commercial history that underpins our clauses and precedents. All of this research is published and available in the Online Digest. It is particularly important to understand this material when the other side wants to change a clause you have used, or where you are responding to and reviewing their document for your client.

The Form Button

There is a whole slew of corporate law and property law forms prescribed by the regulators that must be filed to finalize transactions. The firm has all of these forms as Word documents, which can simply be found by pressing the Form button and then selecting the form you want to use.

Internal administrative forms are also available here. The interface works just like the precedents and clauses button—pick a category of documents, and it displays a list of documents that are available in that category. You just pick "Admin forms" and then all the administrative forms are displayed.

The Execution Button

The next button in this group is the Execution button. At the end of every legal agreement there are always execution clauses (or signing clauses), one for each of the parties to the agreement. Depending upon the type of party—corporation, partnership, joint venture, individual, etc.—there are different forms of execution clauses. When I get to the end of the document I am drafting, I press this button to select the appropriate execution clause for the parties to my document.

After I click on the type of execution clause I want, I am prompted for the information necessary for that type of execution clause, which is then automatically completed for me when the clause is inserted in the document.

For example, if the document is executed by a corporate officer under a power of attorney, I am asked for the name of the company, the name and title of the officer, the date of the power of attorney, and whether the power of attorney has been registered. All of that information is then inserted in the right place in the clause automatically. It couldn't be easier.

The Digest Button

The next button on the toolbar opens the Online Digest, the primary knowledge repository for the firm. As I mentioned earlier, the Online Digest works like a book with hyperlinks. The major categories of the Online Digest are indicated in figure 8.11.

When I am looking for similar documents, or our advice on previous issues, I use the Online Digest. I can browse the categories on the left and drill down through the categories, full-text search all of the content, or look up the physical *Keys* volume first to find the reference for what I am looking for and go straight to it.

Once you mark a document as finished using the checkered-flag button, it generally takes about seven days for it to be reviewed and incorporated in all of the right places by our Digest people.

I said earlier that when I am opening a matter I indicate its type. Well, sometimes for novel transactions, a matter type doesn't yet exist in the *Keys* volume, and so I call the Digest people. I explain the new matter I am working on and they then consider whether something should be added to the list of matters, and let me know the category to use, within twenty-four hours. They then make sure the new item is automatically added to the index, and then to the *Keys* volume in due course.

The great thing about this is that when I call about a new type of matter they can tell me if anyone else in the firm is also working on the same kind of thing. This has been really helpful a couple of times already, where I have been working in an emerging area of law and I could coordinate with the other
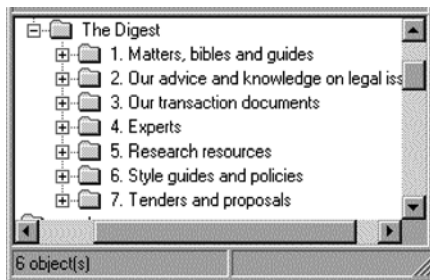
Figure 8.11. The major categories of the Online Digest

team looking at the issue on the other side of the country. There's no point both of us reinventing the wheel, or worse still, giving different advice!

The Intranet Button

The next button on the toolbar connects to our intranet. Pressing the intranet button opens up Internet Explorer with the default page that is the firm's intranet home page. The intranet home page is personalized—it knows who I am and displays links to specific information about me, my practice group, my clients and contacts, my matters, and the information I am most likely to need.

The intranet also houses a collection of our knowledge resources, including:

- The virtual concierge
- Our people database
- The clients and mail-outs database
- The library database
- Client arrangements and teams
- Group home pages
- Online taxonomies
- Online training
- Policies and procedures
- Classified advertising
- The job board

Let me tell you a bit about each of these.

The *virtual concierge* is an A–Z index to all of the processes, procedures, and information at the firm. It has direct links to all the right people (including phone numbers) anywhere in the firm, including links to the right intranet pages with helpful information. The virtual concierge is quite clever: the same item can show up under different names in the index—for example, the entry for *Tenders* sends you to the same information as the entry for *Proposals*. If you're looking for something that isn't in the index, you're asked to let the concierge know what you were looking for. The virtual concierge is then regularly updated to better match the language that we lawyers use when looking for things.

We haven't had the virtual concierge for long, but it's fantastic and sure beats a normal search of the intranet to try to find something. It's just like having a first-class information concierge at your disposal, twenty-four hours a day, seven days a week.

Our *people database* is the organizational bible of people information that feeds all of the systems within the firm. Here you get the usual things like name, telephone numbers, location, map, and picture, as well as biographical information maintained by each of us including education, languages, work experience, and other details. I often use the people database to look

up telephone numbers and office locations and to check people out before I meet them. Importantly, the information here is always accurate—the human resources people take the accuracy of this information very seriously, probably because our managing partner does!

The *clients and mail-outs database* is the organizational bible of client names and addresses for the purposes of our various mail-outs. Here I can easily check what publications my clients get, modify the details of their position and other information, and make sure they are getting the right publications. There are links to each of the publications so I know what they are like, as well as an editorial description of the publication. In the past, I have used these small descriptions of the publications to let my clients know what they can expect to receive and what I have signed them up for. They have really appreciated the personal touch of these e-mails, and they didn't take long to cut and paste together.

The *library database* is the complete library catalogue, which uses the same categories to classify books and other items as the legal issue tab of the *Keys* binder. What this means is that when I am looking something up in the Online Digest I can then use the same categories to look up information in the library database. Actually, there is always a hyperlink in each Online Digest entry that opens the library catalog and automatically searches for books about the topic that I am on in the Online Digest—neat and simple, like Amazon.com.

One of the things that was drummed into me by the librarian when I first arrived was that often the best material is in *books,* not online, and so I often use the library catalog to see what wisdom is around. While it's tempting to be lazy and just use one's fingers on a keyboard to do research, sometimes you have to use your legs—and your brain too!

Client arrangements and teams are home pages maintained by our client relationship partners for each of our major client teams that provide information about arrangements we have made with our clients in relation to how they will be serviced. This information covers things like conflicts, hourly rates, and disbursement charges, the format and content of monthly reporting on the progress of matters, the use of specific clauses and documents, a history of the relationship, and a commercial discussion of the client's business. If I'm doing work for one of our major clients, I'm expected to be familiar with the terms and conditions we have agreed on with our client and to familiarize myself with the background information on the client, its history, and its industry. Where I am a part of the team for a major client, I am automatically notified about changes to this information, to make sure I am up to date.

Group home pages are home pages for each of our practice groups, which primarily support the community of practice meetings that we have. I am expected to always attend our community of practice meetings, and the home page is not a substitute for attendance and participation. What the home page does do is provide a warehouse for the documents that are circulated at the meetings, for the minutes of meetings, and the like.

Some of our practice groups started to try to make their group home pages on the intranet bigger than Ben Hur exercises, but they just didn't have the time or interest to maintain them. It didn't make sense to have the group home pages as exhaustive resources, because in the main they were duplicating information that already existed in the Online Digest or in the people database. It was just a waste of time to duplicate the effort, and they realized that after a couple of months and trimmed down their scope.

The focus of these pages is now to support the community of practice that is our practice group. That's it. Nothing more.

Online taxonomies are a way of electronically searching the content of the *Keys* binder that we all have on our desks. The firm provides this because some people prefer text searching on screen, rather than browsing the physical binder. I myself use the physical binder, because it's always available on my shelf and very ease to use, and doesn't disturb what I have open on the computer. But some of my friends prefer the online one.

It pretty much works as you would expect, and when you find the topic you are interested in, you click a hyperlink and the Online Digest is opened at the right entry.

The firm has prepared a suite of *online training* modules on a range of legal, nonlegal, and technology-related skills. There is an electronic survey we all complete annually about what we do and don't know—specific stuff like rating our skills on how well we listen, how well we delegate, how well we cope with stress, whether we can send documents attached to e-mails to clients, whether we can use the Digest, and so on. These are really specific questions. On the basis of our answers, a link from my personalized intranet home page presents online courses and readings that are appropriate for my level of skill. I can then do these anytime.

The questions in the survey relate to the information and knowledge that is outlined in my *Personal Knowledge Companion* about what I have to know—the focus is very specific skills. For example, it's not just general guidance on using e-mail, but the ten specific things that I need to know how to do *with* e-mail to do my job.

Policies and Procedures is a home page that displays links to all of the firm's policies. We do not have that many policies, but what there is you do need to know. You are expected to know these and follow them.

The major policies are in relation to:

- Values and beliefs
- Confidentiality
- Performance expectations (which include billable- and nonbillable-hour expectations)
- Risk management and quality (which includes the authorization of advice)
- Knowledge strategy and expectations
- Graduate and lateral recruiting: attributes and principles

- The use of document styles
- E-mail use and standards
- Computer usage and privacy
- Promotion to senior associate
- Admission to partnership

All of these policies are numbered, published in the same style, and regarded very formally within the firm. We are all encouraged to contribute ideas where we think they may be improved.

Classified advertising is a "for-sale" database for people at the firm to advertise personal items they may have for sale. As we have this database, one of the cardinal rules in the e-mail policy is that under no circumstances can e-mail messages be sent around the firm in relation to objects for sale or other personal classified material. The classifieds are quite a thriving community in each of our offices, and it's all integrated with our people database, so you can click on the name of a seller and send them an e-mail message, or call using the telephone number that is automatically displayed beside their ad.

All open positions within the firm are advertised on the *job board*. The lateral and graduate recruitment policy provides that all positions that are open and being recruited will be advertised for at least a week on the job board to enable internal candidates to apply.

The CVs Button

The next group on our toolbar is two buttons that help with tenders and proposals for new work. The first button in this group is for CVs of our lawyers and key management team.

Clicking the CV button opens a window in which you pick a practice group (like finance). Then the names are displayed for that group broken down by their level. For example, the items in the first list are something like:

Partners A–K
Partners L–Z
Senior associates A–K
Senior associates L–Z
Lawyers A–J
Lawyers K–S
Lawyers T–Z
Management

Once you select the level, a second list is displayed of the people matching the category in the practice group you selected. Each résumé is a Word document with a consistent structure and layout. Some partners may have multiple résumés where they have separate and distinct parts of their practice and where tenders for those practice areas require a more specialized résumé.

It is each of our responsibilities to keep our résumés up to date, and marketing has a quality assurance role to help us.

When preparing a tender, putting the résumé material together for the team is as easy as pressing the CV button and then selecting the résumés for the team you are putting together for the bid. Of course, sometimes the CVs may be tailored a little for the particular bid—but it gives you a tremendous head start.

The Tenders Button

The second button in this business development group is called Tenders. Whereas the Online Digest contains all of the examples of past tenders, the Tenders button gives me access to the standard language or clauses that have been created to describe the firm, the way it works, its areas of practice, and the value adds that are available and offered in tenders. It's like the Clauses button, except that the text provided is for tenders and proposals rather than legal clauses.

All of the answers to the typical questions asked by clients in tenders are here. Of course, your tender response must be specific to the request for proposal. But the starting point here enables me to know how the firm approaches the issues and then, if necessary, I can have a discussion with management to determine if departure from the standard approach is justified in the circumstances of the bid.

The language of these clauses changes from time to time to reflect the dynamic nature of the firm and also to reflect the typical questions that are asked of us in tenders.

The window that opens when you click the tenders button also provides links to some training and other materials, and some articles that the marketing department has collected for us about client service, tender processes, and managing the presentation processes. The other materials include client testimonials, key deals the firm has done, our performance in surveys, key details about the firm—right down to PowerPoint templates to use for the pitch and examples of winning proposals.

It really saves time in replying to tenders when all of these resources are available and can be used by anyone throughout the firm, anywhere, anytime.

The Timesavers Button

The next button is called Timesavers—which is a real timesaver in making Word do what I want it to do without all the hard work. These are small programs that the firm has created to make Word automatically do complex word processing tasks for me, all in a way that is consistent with our firm style for our various documents. This is not just help about how to do the complex things—timesavers actually do the work for you at the press of a button!

Pressing the Timesavers button opens up a window with the familiar two-list structure. The first list is the categories of things you want to do, and the second list is the specific actions you may want to take.

For example, entries in the first list, the categories of things you want to do, are:

Conversion of documents
Cover pages
Currency and other symbols
Headers and footers
Mailing lists
Section breaks
Tables of contents
Toolbars
Track changes (redlining)
Watermarks
Working with precedents

Depending what you pick in the first list, a second list is displayed. For example, picking "Tables of contents" in the first list then displays the following in the second list:

Insert firm style table of contents
Delete existing table of contents and replace with standard one
Update table of contents

All I need to do is select the one I want and it all happens for me, without me having to know how to do it in Word. And this way, what I do is always consistent with the firm styles and standards. After all, we are not all word processing operators. Funny thing is that all the WP operators I know use the timesavers as well!

People are encouraged to provide ideas for other timesavers that could be incorporated, and from time to time we are told about new things that have been added for us to use.

The Set City Button

The next-to-last button on the toolbar is called *Set city*. The documents I get when I use all of the other buttons of the Lawyer's Toolbar sometimes depend on what city I am in. For example, the courts of one state have different requirements for affidavits, depositions, and pleadings than do the courts of other states. By default, the city is set to the city where I normally work, but this button enables me to change the Toolbar to select another city.

If I'm doing work that will be filed in another city, I need to use the right document for that city. All I need to do is select the other city using this button, and then I can use the Forms button on the toolbar that will then display only Forms that are appropriate for use in that other city.

The Question-Mark Button

The last button on the toolbar is a consistent part of any system that the firm creates. The question mark is for help—if you do not know what the toolbar is, or how to use it, press this button.

When you press the button, a window opens that:

- Gives you a brief description of the toolbar
- Provides telephone numbers for contacts if you want to ask a question or seek guidance
- Links to online tutorials about how to use it
- Links to one page quick guides for printing

This is a standard part of the way any system or process is introduced at the firm, whether it is a toolbar, something on the intranet, or how to use a new photocopier. There is always, *always,* something obvious (like the question mark on the toolbar, or a question-mark sticker on a photocopier) that gives you the consistent four elements of help: a description, people to help you, online materials and tutorials, and quick guides.

So that's our Lawyer's Toolbar, something that all of us use every single day.

As I said earlier, there are a whole lot of other things the firm does with knowledge to make our life easier. I don't really have time to tell you all about them now, but they include:

- Daily e-mail services summarizing legal and commercial news into readily accessible sound bites
- Weekly consolidations of e-mail messages from all administrative areas of the firm
- Personalized library consultations to establish each lawyer's updating strategy (which is then recorded in our Personal Knowledge Companion)
- Preparation of CD-ROM and PDF file deal books for major transactions
- After-matter reviews for major matters

Of course, all of these things were rolled out over a couple of years, but at the beginning of the process they produced wall charts that put a name to all the pieces of the strategy, so we all knew the direction in which we were traveling.

I tend to take all the support around here for granted, but my partner tells me horror stories of what is was like before the firm realized how to effectively address knowledge strategy at the firm. Apparently, there was significant investment and many databases were created, but the firm was never close to delivering on its value of our clients being entitled to our collective expertise. We always got into trouble reinventing the wheel, and sometimes different offices even gave different advice on the same issue to the same client!

As I, a busy transactional lawyer, see it, our knowledge strategy is effective because of four things:

1. Our value that our clients are entitled to our collective expertise. This simple statement is the value against which we assess what we do, and it is the value we live by.
2. Our understanding that knowledge strategy should support knowledge workers, rather than the other way round. Our knowledge strategy is personal first, interpersonal second, and then digital.
3. The outstanding and recognized contribution to the firm of the dedicated team that makes sure our core documents and clauses are the best in the market, and oversees the taxonomies, and the incorporation into the Online Digest, of our emerging experience.
4. The simplicity of the seven things that I have to do as part of our knowledge strategy:

   Talk often.
   Participate hard.
   Open right.
   Write right.
   Finish right.
   Close right.
   Think share.

Recommendations for Your Personal, Interpersonal, and Impersonal Knowledge Strategies

John's story in the last chapter of part II is an example of what a lawyer may experience in a firm that has created and implemented a knowledge strategy along the lines advocated in this book. His firm focused on people, not on technology; on values, not on databases; on lifting performance, not on investing in platforms. John gave us a summary of the important things from his perspective without a conceptual knowledge framework or structure—just what he thought was important.

The chapters contained in part III outline a range of knowledge initiatives that you should consider in creating and implementing your firm's personal, interpersonal, and impersonal knowledge strategies.

The table below sets out an index for a range of initiatives that you should consider. Some of these are self-explanatory. Others, which are a little more complex, are discussed in the chapters in this part. You should review this table before proceeding into the detail in the chapters.

In many cases, the detail in the chapters refers to John's story, for example in the use of the Online Digest or the Lawyer's Toolbar. Whereas John's story provided an introduction from a lawyer's perspective, the chapters that follow provide more detail about how to go about creating and maintaining the various initiatives. These initiatives are grouped in the table by the three dimensions of knowledge strategy—personal, interpersonal, and finally impersonal and digital strategy.

The personal initiatives are in the first column. They are should-have initiatives. They are not necessary to have for the functioning of the firm, but they make a difference in performance for little cost.

Table III
Initiatives within an effective knowledge strategy

Personal	Interpersonal	Digital/impersonal
Should-haves	Should-haves	Foundations
Chapter 9	Chapter 10	Chapter 11
Compulsory training on	Compulsory training on	Documenting and drafting style standards
• Speed reading and listening courses and awards • Personal physical and digital knowledge management • Effective use of computers, voicemail, e-mail, dictaphone, PDA, remote access, BlackBerry, etc. • How to customize your your computing environment	• Conversations and introductions • Delegation and supervision supported by tools • Effective working and teaming relationships • Effective coaching and performance appraisal processes for coach and team members • Effective communities of practice with documented learnings on life cycle distributed to leaders	Word processing tools to embed and use document styles, including toolbars in Word and PowerPoint
Development of lawyers' multiple intelligences	Creation of opportunities for mixing different groups of people at the firm	Taxonomies for matters, documents, legal issues, and expertise
Rewriting training materials to expressly identify what is to be known and what is to be known exists	Organizational trust and caring for people	A document management system with appropriate fields and elegant integration into lawyer's authoring environment
Creation of personal knowledge companions		An e-mail system with appropriate rules, guidelines, training, and customization
Firm belief and value system that includes knowledge		An accurate and simple people directory service
Reward and performance systems aligned with values including knowledge		A standard computing environment, including browsers with all appropriate plug-ins
Collateral including stickers for laptops, wall charts, quick guides, Book of Wisdom		

Table III
(*Continued*)

Digital/impersonal	Digital/impersonal	Digital/impersonal
Must-haves	Should-haves	Investments
Chapter 9	Chapter 10	Chapter 11
Common clause library automated for inclusion in documents, with notes on use and underpinning research	Register of client tender commitments and client arrangements for billing, etc.	Meaningful access to prior transactional work products, including training
Must-have precedents that clients expect	Register of client feedback, and information on what clients want	Advanced technical and nontechnical knowledge: articles, publications, and seminar papers
External legal and commercial materials (physical and electronic) and library database	Register of lawyer and competitor hourly rates (Competitor intelligence—differentiation of firms, rates, and arrangements)	Client-specific clauses and precedents
E-mail alerts for current awareness materials	Notice boards for current awareness materials	Noncore clauses and precedents
Core technical and nontechnical skills documented and embedded in training and personal knowledge companions	Strategy for daily e-mails within firm, and hierarchy of communications for attention	Register of internal expertise
Leader's guide to effective communities of practice and group life cycle management	Mandatory reading lists for lawyers and sources of additional information and study	Transaction process guides, stories, and case studies
	Lawyer CVs	Book of Wisdom
	Tender clauses and supporting information	CRM/contacts database
	Publication distribution database	External Course attendance and recycling knowledge
	Register of nonbillable projects and investments	External speakers visiting firm
	Project methodology for internal nonbillable projects	Online training
	Matter library, including profitability; matter profitability simulator	

The interpersonal initiatives are second, which are also should-have initiatives. Most of these are process and behavior changes that do not involve significant investment, although none are strictly necessary for the operation of the firm. Properly implemented, however, they will improve the financial and operational performance of the firm.

Finally, there are four columns for the impersonal initiatives, which are separated into four classes:

1. Foundations
2. Must-haves
3. Should-haves
4. Investments

9

Personal Knowledge Strategy

Tacit Is King

Great spirits have always found violent opposition from
mediocrities. The latter cannot understand it when a man does
not thoughtlessly submit to hereditary prejudices but honestly and
courageously uses his intelligence.
—Albert Einstein

The first dimension of a firm's knowledge strategy is its *personal knowledge strategy*: its strategy for developing personal actionable knowledge for use by its lawyers. It involves the strategies for the building of actionable knowledge in the lawyer's brain, and the assistance of the lawyer in building personal external-to-brain resources.

Picture the most respected lawyer in your firm standing beside a first-year lawyer of the same practice area. What is the difference between them? Both have access to whatever books sit upon the shelves of your firm's library. Both have access to vast electronic resources provided by the firm. What distinguishes the two is solely what is in their brains. Remember, the primary skill of knowledge workers is what is in their *brains*, not what model computer they have.

The brains of lawyers are the single most important tool in the provision of legal services, and yet most knowledge management initiatives spend more time understanding, explaining, and cajoling lawyers to use the comparatively limited device called a computer.

Think brains, groups of brains, *then* think about computers.

I once had quite an "aha" moment in understanding the brain when watching an episode of the excellent BBC television documentary series *The Human Body.* This particular episode examined the brain development of a toddler. As a father with a toddler, I watched with keen interest. The knowledge in the program entered my brain through my eyes and ears, and the vivid

pictures have remained with me ever since. The series gave me a new sense of responsibility for the intellectual development of my daughters!

Using advanced medical imaging, the documentary enabled a view inside the skull of a baby, to see how the brain grew—not in external dimension, but how the physical pathways within the brain grew in response to repeated experiences, and how the pathways were reinforced by activity. The acquisition of knowledge, and skills, was reflected in physical changes inside the brain—pathways grew, often interconnecting.

Imagine the environment within your brain as highways growing out, interconnecting. If the knowledge was not used, or reinforced, the physical pathway within the brain of the baby died, to be replaced by other growth. It was breathtaking.

Which leads to a simple truth:

Your brain is a system, the growth of which depends upon the choices you make.

In *Head First*, brain authority Tony Buzan puts it simply: "Did you know: At the same time as you make mental connections in your thoughts you are making physical connections within your brain? You are literally making your super bio-computer more complex, more sophisticated, and more powerful."[1]

As explored earlier in chapter 4, lawyers have the following categories of knowledge within their brains, within their super biocomputers:

- Tacit technical knowledge
- Tacit knowledge about sources
- Tacit knowledge about people
- Skills
- Values
- Beliefs
- Motivation

Knowledge in each of these categories exists within the pathways in the brains of lawyers—large quantities of knowledge and experience. The quality of a lawyer thus depends upon the quality, the completeness, and the balance of the knowledge in each of these categories, stored in their brains.

It follows that in formulating a strategy to increase the performance of lawyers as knowledge workers, we need to consider and understand:

- How knowledge enters the brains of lawyers
- What can be done to assist lawyers grow better brains, retaining knowledge and building thinking skills
- What specific knowledge in each of the categories best equips our lawyers for the individual roles they perform within our firms (what do lawyers need to know?)

How Knowledge Enters the Brains of Lawyers

It is a relatively simple and obvious truth that the only way knowledge enters the lawyer's brain is through one of the human senses. Biologically, the knowledge enters the brain via the eyes, the ears, and, to a small extent, the nose and hands.

As a former practicing lawyer, there are few smells as strongly burned into my consciousness as the smell of law reports in library stacks, few sensations as enjoyable as holding hardcover volumes, covered in cloth, bound with leather. A walk along the library shelves among the volumes of bound case reports stretching over a century is both a humbling and an enriching experience for lawyers—who cannot help but *feel* a connection to the past, to the history, traditions, and beauty of the law developing through the evolution of reasoning throughout the years. Strangely, even the volumes that have long since been supplanted by electronic equivalents remain treasured possessions within law firms and law libraries, often referred to as "wallpaper books."

Lawyers like books—for lawyers, books contain knowledge and wisdom.

To the great annoyance of my wife, I confess I am prepared to pay the higher price to purchase hardcover versions of books where available. It just *feels* better. I believe this preference to be a result of the conditioning of a legal education—books are cherished in the law, used as a reference of ongoing value. Whether for reasons of utility (hardcover books survive use better) or maintaining the publishing traditions of the law, there is a distinct and enduring preference in most lawyers for hardcover books.

Consider this advice from Dan Poynter in *The Self-Publishing Manual*: "You will find that most books on each shelf have their own look and feel. Give your customers what they want, expect and deserve. If this is a business book, it should be in hardcover with a dust jacket; if it is a professional book for doctors, lawyers or accountants, it should be in hardcover without a dust jacket; if it is a children's book, it should be oversize, in four-color, hardcover and have a dust jacket."[2]

So touch, as a sense, can impact the significance and weight a lawyer ascribes to written material, and it certainly influences the memorability of the material. You should bear this preference in mind when you are planning delivery approaches for your knowledge strategy projects. A hardcover book will attract very different attention and respect than an intangible database accessible only at the end of a keyboard. Even a CD-ROM, complete with a library of works, feels somehow weak and unsatisfying compared to shelves of books.

The major senses, however, that a lawyer uses in *acquiring* knowledge are the eyes, and the ears. The eyes and ears are truly wondrous things, as Buzan explains. First, the remarkable eyes:

- Your retina, the light-receiving surface at the back of your eye, is only slightly thicker than a razor blade, yet contains 130,000,000 photoreceptor (light-receiving) cells.

- Of these 130,000,000 cells, a mere 6,000,000 of them, called the cones, handle all color vision.
- These 6,000,000 cones can process and distinguish 8,000,000 different shades of color.
- The remaining 124,000,000 photoreceptors are called rods. They are so sensitive that they can detect and distinguish a single photon of light.
- At night, the 124,000,000 rods, in order to help you survive in the dark, can increase their sensitivity by 75,000 times.
- Every second, billions of photons of light strike your retina. This is the equivalent of about 100 megabytes of information per second![3]

Think about that, 100 megs per second, every second. Just by opening your eye. It makes the most powerful PC look childish. And next, the remarkable ears:

- You have 16,000 hair cells in your inner ear—they respond faster than any other cell in your body.
- Any of the 16,000 hair cells will trigger if you move the tip by as little as the width of an atom!
- Your hair cells, when you listen to the high notes in classical music, fire at the rate of 20,000 times a second.[4]

Most lawyers are blessed with two eyes and two ears, and these powerful information-processing organs are the primary paths along which knowledge enters their brains, principally through reading and listening.

It follows that no matter how much knowledge is *available* to a lawyer in the external environment (that is, available *managed* knowledge), the amount of knowledge that enters the brain is constrained by the speed and quality of the two primary pathways of reading and listening. Of course, the method of reading, and its pace, will depend upon the nature of the content being read, but there are significant differences in knowledge acquisition and knowledge work by those with superior and flexible reading skills compared to those whose reading habits have advanced little since elementary school.

Suggestion for Personal Knowledge Strategy

To help your lawyers with their speed in acquiring knowledge when dealing with technical and nontechnical reading materials, *all* lawyers should be required to complete a leading speed-reading course early in their careers. A significant prize should be awarded for the greatest increase in reading skill (measuring speed and comprehension) in each course.

To help your lawyers with the quality and effectiveness of their listening, *all* lawyers should be provided with (and required to complete) a leading and demanding listening-skills course. A significant prize should be awarded for the greatest increase in listening skill (measuring speed, comprehension, and interpersonal relationship with the speaker) in each course.

What Can Be Done to Assist Lawyers in Growing Better Brains?

A mistake often made is to presume that IQ, or even EQ (emotional quotient),[5] is fixed. Indeed, the process and "science" of formal IQ measurement is less than a century old. In *Head First*, Buzan outlines the ten different intelligences, each of which is capable of development. The development of each can amplify the development of the others in a virtuous cycle of connections and insights.

According to Buzan, the ten intelligences are divided into three categories:

The Creative and Emotional Intelligences

Creative intelligence (the ability to be creative)
Personal intelligence (being happy with oneself)
Social intelligence (your communication IQ)
Spiritual intelligence

The Bodily Intelligences

Physical intelligence
Sensual intelligence
Sexual intelligence

The Traditional IQ Intelligences

Numerical intelligence (knowledge of the alphabet and numbers)
Spatial intelligence
Verbal intelligence (vocabulary and ability to see relationships between words and concepts)[6]

Looked at in this way, strong, traditionally successful lawyers are those who excel in verbal intelligence, and the heavy weighting of verbal intelligence in traditional IQ testing positions lawyers at the upper end of the results of IQ tests. This high level of verbal intelligence, and the high scores attained on traditional IQ tests, often blinds the lawyer to a deeper understanding of intelligence and the opportunity to develop their other intelligences.

The knowledge work of a lawyer as a professional *helping* clients, however, requires many of the intelligences which are traditionally regarded as weaknesses of lawyers, in particular the creative and emotional intelligences.

Consider the most effective lawyers at your firm. Which dimensions of these intelligences do they excel at? As human beings, do their interests and activities cross the other intelligences, or are they one-dimensional, excelling only at verbal intelligence? The best lawyers are often broad in their intelligences.

So how do you help your lawyers develop what is their most important tool—to become more multidimensional and at the same time more intelli-

gent? The first step to better using the biocomputer with which we are blessed is understanding it, and then specifically engaging in activities that develop each of the ten intelligences.

I often lament that there is no instruction manual for the brain, although Buzan's multiple books, and those of the other writers in the field, are fertile ground to find ideas, training programs, and books for your lawyers to read to become more self-aware and more intelligent.

Suggestion for Personal Knowledge Strategy

To develop your lawyers' multiple intelligences so that they may become better lawyers, and better people, expand their understanding of intelligence, giving them opportunities and exercises to develop nonverbal intelligences (like art appreciation, for example) and training in thinking and memory skills.

What Knowledge Should Be Inside the Brains of Your Lawyers?

Success at law school, like success in most modern schooling environments, is achieved by demonstrating mastery of a subject in a measurable way at a point in time. Assessments remain dominated by examinations and essays. The syllabus provides a wide variety of subject options, and in each of these subjects students devote almost as much attention to the subject matter as to the methodology for performance assessment. In other words, in law school, a student's objective is the grade for the course, rather than the building (and maintenance) of knowledge about the law.

The tragedy of this is clear if we replace the word *student* with *learner* in the preceding sentence. Restating the sentence, modern education is where the learner's objective is the grade for the course, not learning.

After the student demonstrates mastery and passes the course, knowledge leaks quickly out of the student's brain. As for an Olympic athlete who tapers for the last performance of her career, the finish line is all that matters. And so young lawyers enter law firms having completed many subjects at law school, remembering some of what they learned, generally lacking any process to maintain that knowledge beyond the course of their study.

Most large law firms have an intensive education and induction program for new lawyers joining the firm. However, rarely do these programs specifically identify the *particular* knowledge in each of the categories of tacit knowledge that are expected to be within the brains of their lawyers. Does your firm ever outline *specifically* the knowledge that you expect to be within the tacit knowledge of your lawyers? Are these specifics documented anywhere as a guide for your lawyers?

You may have classroom training sessions, but it is not enough that a course was attended and the course notes sit upon the lawyer's shelf. There are some types of knowledge for which this is sufficient, where tacit knowledge about sources is the appropriate learning. But there is other knowledge that needs to form part of the lawyer's tacit knowledge, to be part of their mental models when they perform legal analysis.

And don't limit your thinking to knowledge about the law—pay strong attention also to skills, values, beliefs, and motivation. Approach each of these categories of tacit knowledge within lawyers' brains as worthy of *equal* time and attention. Indeed, often the skills which are most lacking, and which most contribute to outstanding success as a professional, are nonlegal.

Writing in the *Legal Times*, Victoria Ruttenberg, a Washington, D.C., lawyer and mediator who advises professionals and executives on career issues, identified the skills new lawyers most lack—and they were not legal skills. Beneath the headline "Nonlegal Skills Crucial to Success" she observed:

> Many students with the qualifications necessary to be hired as summer associates have gotten where they are by following directions. They go to class when class is scheduled, they read what they are told to read, they do the assignments they are given, they study the material for exams that they are told to study, and they are rewarded with good grades.
>
> What they lack, and desperately need, is training in the following professional skills:
>
> - How to request feedback
> - How to respond to critical feedback
> - Taking the initiative to clarify assignments
> - The importance of being available, including being responsive to phone calls and e-mail
> - What to do if they are overwhelmed with work
> - How to work with their secretary and other staff
> - What is expected of them in client meetings
> - How to prioritize and juggle multiple projects
> - The importance of meeting people throughout the firm[7]

In truth, it is not a long list, but an excellent one. These are valuable skills that your best lawyers will learn only through trial and error—unless you help them. Of course, some of your lawyers, unless you help them, will never gain these important skills.

Suggestion for Personal Knowledge Strategy

All training and materials should be reviewed and revised to make plain what the organizational objective is in relation to the knowledge being discussed. For example, in relation to *every* learning experience:

- Is the objective that having been exposed to the knowledge the lawyer *may* remember it? Note that the average retention rate for even classroom training is extremely low after only a few days.
- Is the objective that the lawyer remembers that the discussed source of knowledge exists, so that what is important is that the lawyer builds tacit knowledge about sources, rather than tacit technical knowledge?
- Is the objective that the lawyer actually *knows* the knowledge—in other words, that it forms part of the lawyer's tacit and immediately actionable knowledge? Note that this takes personal effort, commitment, and learning.

If we do not identify for our lawyers that which we want them to learn, even if they are prepared to invest the effort, their efforts will be misdirected. Whatever the objective is, clearly signal it to your lawyers. If you do not signal it, they will not know what you intend them to do with the information you are providing. Tell a story about how the information is used, and why it is important to treat it as either tacit technical knowledge, or tacit knowledge.

Such an approach will require an investment by your best people in identifying, *specifically*, what the knowledge is in each of the categories of tacit knowledge that you want to be in the brains of your lawyers. This will require much greater specificity in an analysis of what knowledge, skills, values, and beliefs best equip a lawyer at the various stages of her career in your firm and in your various practice areas. Avoid generalizations here. What, *specifically*, is the knowledge that best equips a lawyer to be outstanding in your practice?

Remember, the objective of training is *learning*, not course attendance. It follows that training should be focused on the outputs of the process, and not on measuring the process itself. The fact that lawyers are provided with many hours of classroom training does not mean that when attendance is complete that the lawyer knows what he was expected to know. It is not surprising that the very popular Idiot's Guide series of books has a section at the end of every chapter titled "The Least You Need to Know." In other words, with this minimum knowledge, you will be able to operate with the concepts, and know that further information is available on those topics by referring to the book. That is, "the least you need to know" is the tacit technical knowledge that the author wants you to retain, and the tacit knowledge about sources that the author wants you to retain is that there is further information about those concepts in the book. Why not adopt these, or similar, learning conventions in your materials?

What the above means is that for lawyers in each practice area, you should develop and publish detailed outlines of the contents of the tacit knowledge for each category of tacit knowledge that the firm regards as the "least" its lawyers need to know. You should also augment the "least you need to know" material with an identification of what additional knowledge would be highly regarded, and the sources of that additional knowledge, enabling high-performing lawyers to produce ever better actionable knowledge. Don't forget

that one of the strongest cultural drivers of your lawyers is competition and paranoia about failure. Leverage these cultural traits to help your lawyers be better professionals.

Personal Knowledge Management Strategy: Physical and Electronic

An emerging key skill for all knowledge workers is being able to manage their attention, and to deal with the increasing proliferation of internal and external materials with which they are confronted.

In *The Attention Economy* Thomas Davenport provides a wearying list of the information now available: "Think about all the text in those 60,000 new books that spew out of U.S. presses every year, or the more than 300,000 books published worldwide. Think about the more than 18,000 magazines published in the United States alone—up almost 600 from the year before—with more than 20 billion pages of magazine editorial content . . . . Consider the 1.6 trillion pieces of paper that circulate through U.S. offices each year. Try scanning the 400,000 scholarly journals published annually around the world."[8] The good news is that much of this is accessible more cheaply then even before. The bad news is that the tidal wave is only getting bigger. These comments above relate to traditional media—books, magazines, and journals—which have witnessed explosive growth.

Add to that, however, the extraordinary growth of online materials over the last decade with the growth of Internet content. Jason Frand and Carol Hixon of the Anderson School of Management at UCLA suggest that the growth in electronic materials has been driven by a number of factors, including:

- The evolution in performance of microprocessors
- The continuing reduction in the cost of electronic storage (the cost of storing traditional print-based information continues to rise at the same time that the cost of storing digital information continues to decrease. The book is no longer the low-cost medium. A terabyte—1,000 gigabytes—of disk storage will store 1,000,000 full textbooks. The cost of such digital storage in 2004 is predicted to be $100—100 books per penny.)
- The growth in PCs and PC Internet access, becoming almost ubiquitous
- Internet information growth[9]

As Frand and Hixon say: "Herein lies the dilemma: what is the relevance of mere digital size (terabytes of digital information) to the value of the content? What is the ratio of total volume of networked information to information useful to scholars—or to anyone?"[10]

Importantly, there is a fundamental shift going on in the nature of materials, and the processes by which they are published and evaluated. The apparent advantages of electronic publication of speed, accessibility, and decreased

cost of production and distribution have, in many cases, negatively affected quality, and in all cases, made quality materials more difficult to find because of the increased noise of the volume of material being published online.

Table 9.1 reproduces Frand and Hixon's very useful analysis of the difference between the online and print worlds, which clearly demonstrates the impact on users of material—in particular, the responsibility for content evaluation.

What this means for lawyers is that in many cases, the evaluation of content becomes a role of the lawyer, lest information which is not authoritative, not accurate, or not complete become incorporated into advice as simply as a cut-and-paste into a document. Lawyers once knew the resources upon which they could rely, but with the explosion in available online content, most lawyers are no longer certain of which resources are trustworthy and which are not. What this means for your personal knowledge strategy is that you need to help lawyers with skills that they will not have gained during their formal education.

Professor Paul Dorsey of Millikin University refers to seven key skills of personal knowledge management:

(1) *Retrieving information.* Underlying the PKM skill of retrieving information is everything from the low-tech skills of asking questions and listening and following up to the more complex skills of searching for information using Internet search engines, electronic library databases, and relational databases. Concepts of widening and narrowing one's search, Boolean logic, and iterative search practices are an important part of the effective exercise of this PKM skill.

(2) *Evaluating information.* This entails not only being able to the judge the quality of information, but to determine its relevance to some question *or* problem at hand. Though this has no neces-

Table 9.1
Changes occurring with the shift from print to Web publishing

	Traditional	Web
Cost of production	High	Low
Cost of updating	Very high	Relatively low
Cycle time	Years	Hours
Distribution	Physical	Electronic
Number of producers	Controlled	Unlimited
Editorial review	Prior to publication	Essentially none
Content evaluation	By professional	By users

Source: Frand and Hixon, *Personal Knowledge Management: Who, What, Why, When, Where, How?* Available: www.anderson.ucla.edu/faculty/jason.frand/ researcher/speeches/PKM.htm.

sary computer mechanism for implementation (though Internet search engines have crude relevant raters), the greater availability of information in the current information-rich environments makes this skill of far greater importance.

(3) *Organizing information.* This entails using various tools to draw connections between items of information. In the manual environment, we use file folders, drawers, and other mechanism for organizing information; in more high-tech environments, we use electronic folders, relational databases, and Web pages. Effective *organizational* principles must underlie effective implementation of information organization regardless of the environment.

(4) *Analyzing information.* This entails the challenge of "tweaking" meaning out of data. Integral to analyzing information is the development and application of models, often quantitative, to "educe" relationships out of the data. Tools such as electronic spreadsheets and statistical software provide the means to analyze information, but the human element is central in framing the models that are embodied in that software.

(5) *Presenting information.* The key aspect of presenting information is the centrality of audience. Presenting information—whether through PowerPoint presentation, Web site, or text—builds on principles of chunking information to enable "audiences" to understand, remember, and connect. Web styles and monographs on designing Web site usability provide concrete content for this PKM skill.

(6) *Securing information.* While securing information is a different kind of PKM skill than the other six, it is no less important. Securing information entails developing and implementing practices that assure the confidentiality, quality, and actual existence of information. Practices of password management, backup, archiving, and use of encryption are important elements of this effectively practiced PKM skill.

(7) *Collaborating around information.* Increasingly information "technology" tools called groupware are being provided to support collaborative work. To use that technology effectively requires not just understanding how to use those tools, but understanding underlying principles of effective collaborative work. Principles of e-mail etiquette are an illustration of important knowledge underlying the effective exercise of this PKM skill.[11]

You need to teach your lawyers how to manage both their attention and the physical and electronic information they come into contact with during their working days at your firm. This will include:

- What information to keep, and how and where to keep it
- How to manage electronic information aids

- How to manage physical information aids
- How to manage a personal to-do list and contact information
- How to manage personal administrative information (a common weak spot for busy professionals)
- How to work effectively with a secretary, and as part of a team, to maximize information flow and accessibility
- How to effectively use and manage their business tools: computers, voice mail, e-mail, Dictaphone, PDA, remote access, BlackBerry, and others (including the shortcuts which everyone should know to make their life easier)
- How to customize their computing environment to make life easier and faster

Think of these as life skills for your lawyers—skills that will make a tremendous difference in productivity, reduced stress, job satisfaction (and for the finance director, reduced levels of ongoing administrative support).

Suggestion for Personal Knowledge Strategy

Reconfigure, and create, training programs for your lawyers around Professor Dorsey's framework for personal knowledge management. Ensure quick guides and references are available to assist your lawyers implement personal knowledge management. Design and build physical and electronic tools and templates to facilitate personal knowledge management by your lawyers.

Note that to many first-generation knowledge managers (and partners who have not been properly educated about knowledge strategy) this will appear KM heresy. Assisting knowledge workers to create *personal* knowledge repositories that cannot be shared and accessed by all others within the organization—disgraceful! When you come from the flawed paradigm that the objective of knowledge management is to corral and capture knowledge so that it can be shared within the organization, the notion of abiding, facilitating, and even worse, encouraging personal, eclectic, nonstandard and noninstitutionalized collections of knowledge appears utterly unreasonable. And yet, for lawyers as knowledge workers, the building of personal external-to-brain resources is a key way to develop and maintain actionable knowledge to be better lawyers.

Most first-generation knowledge managers I know lament the fact that many of their lawyers continue to maintain personal knowledge collections—in any form. In some firms, personal knowledge collections are positively discouraged. And yet, the people that maintain these collections are often the most knowledgeable lawyers at the firm, often the most conscientious, focused, client-serving and successful lawyers. For these lawyers, the building of external-to-brain knowledge is a necessary part of how they work—they recognize that there is a role for tacit knowledge about sources, and that unless

they build effective external-to-brain resources they will be less effective as knowledge workers.

The structures of these collections make sense to the way the particular lawyer views the world, and their professional judgment about both what is important and the best way to organize the material to facilitate effective use (by them). Note that the organizational method chosen by the lawyer may not be the most effective electronic organization in the sense of single-source material, links to material, and the minimum use of hard disk space. For a lawyer, it may be important to have a physical copy of an article in multiple physical folders, so that it can be viewed in context with related materials in those multiple places. To a technologist, multiple copies of the same item is almost criminal. Yet, to a practicing and busy knowledge worker, it is the most effective way to organize the material to assist them in the access, understanding, and application of the material.

Of course, guidance in relation to the scope of personal knowledge management exercises will be important. I am not saying that there is no place for institutional knowledge collections; however, there will always, *always*, be a place, in every firm, for personal knowledge collections, and efficiencies can be derived by assisting lawyers with the tools and the concepts to undertake personal knowledge management. For example, how can the document management system be used? How can institutional knowledge stores be used to assist personal knowledge management? Is a new support service called for whereby the librarian visits lawyer offices and helps establish a range of physical and electronic systems to assist that lawyer in being a better knowledge worker and manager of the barrage of physical, electronic, and auditory information, knowledge, and garbage with which lawyers are confronted every single day?

Reflect hard on this one; it will be a test of your knowledge mettle. Knowledge management is about the behaviors and processes by which a group of people increases and maintains their *personal* and collective actionable knowledge to increase performance and decrease risk. Almost universally, law firm knowledge management programs have missed the personal dimension entirely. In fact, I believe personal knowledge to be a far more critical driver to the quality of legal advice and the performance of law firms than the increase of collective actionable knowledge with which law firm KM projects have been so fascinated.

10

Interpersonal Knowledge Strategy
Creation and Projection

Ideal conversation must be an exchange of thought, and not, as
many of those who worry most about their shortcomings believe,
an eloquent exhibition of wit or oratory.
—Emily Post

The second dimension of a law firm's knowledge strategy is its *interpersonal
knowledge strategy,* that is, its strategy for helping lawyers in their interpersonal communication to acquire knowledge from others and to project their
knowledge to others. In other words, to talk—to be social human beings, to
develop the social capital of the firm.

Thomas Stewart tells a wonderful story about the competition between
software and wetware:

> Jack Whalen, a sociologist, works at Xerox's Palo Alto Research
> Center. A few years ago, he was assigned to the Institute for Research
> on Learning, a nonprofit group Xerox supported. He spent a couple
> of years there studying how people, computers, and expert-system
> software interacted in a customer service call center in Lewisville,
> Texas, north of Dallas.
>
> The software (in this case, Inference Corp.'s CasePoint) was
> supposed to help employees tell customers how to fix problems
> with copiers—paper jams, faded copies, and the like. When the
> call-center operator typed words spoken by a customer—"jam," for
> example—the software searched its memory bank of diagnoses and
> solutions.
>
> Trouble was, employees weren't using the new software. Management decided that employees needed an incentive to change. The
> company held a month-long contest in which employees earned
> points (which translated into cash) each time they solved a cus-

tomer problem, by whatever means. The winner was an eight-year veteran named Carlos, with more than 900 points. Carlos wasn't a big favorite among managers—"He's a cowboy," one of them said—but his victory was no surprise. He almost never used the software.

The runner-up was a shock. Trish had been with the company just four months and had no previous experience with copying equipment. Her 600 points more than doubled the score of the third-place finisher. She didn't even have the new software, only an older, less sophisticated system. But she had a secret weapon: She sat across from Carlos. She overheard him when he talked. She apprenticed herself to him and persuaded him to show her the innards of copiers during lunch breaks. She built up a personal collection of manuals and handwritten notes about how to fix problems.[1]

Two important lessons come out of this case study for us. First, one of the ways in which Trish built her knowledge was her personal development of personal external-to-brain resources—her collection of manuals and handwritten notes about how to fix problems. This echoes the last chapter, in which we discussed the first dimension of knowledge strategy, personal knowledge strategy. Even though the centralized, large database of problems and solutions was available to her, even though this vast *managed* knowledge was available to her, in order for her to build her own actionable knowledge, her strategy was a personal collection of notes arranged and annotated in a way that was meaningful to her. Trish's personal knowledge strategy proved more effective than the organization's impersonal or digital knowledge strategy.

The second lesson from the story is the importance of interpersonal communications and conversation in the acquisition and distribution of knowledge within organizations. It is this second lesson that we explore in this chapter. While interpersonal communication seems easy, a skill that we all acquired in our pre-teenage years, in reality it is quite complex and often poorly practiced.

In the context of law firms, there are several key points at which lawyers' interpersonal communication provides opportunities to acquire and project knowledge. Recall the chart of law firm knowledge ecology discussed in chapter 4, reproduced as figure 10.1. As indicated in the chart, several of the key knowledge interactions at law firms are interpersonal in nature, including:

- Interactions with the lawyer's external network of people, and clients
- Informal interactions with other brains at the firm
- Formal interactions with other brains at the firm in the context of the conduct of a particular matter
- Formal interactions with other brains at the firm in the context of structured learning opportunities

The effectiveness of these interactions is a function of a range of factors, including:
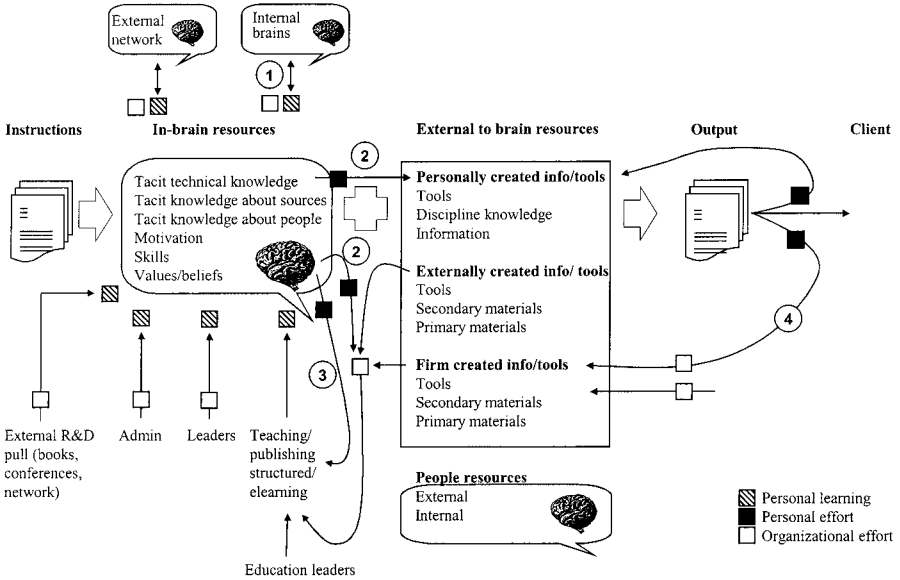
Figure 10.1. Law firm knowledge ecology

- The skills of the people involved in the interaction,
- The degree of trust in the relationship between the people involved in the interaction, and
- The degree of trust and social capital present within the firm.

In other words, the effectiveness of the interaction depends on the interpersonal skills of the people involved in the interaction, and their disposition or preparedness to openly communicate, which in turn is a function of the social capital present in the immediate relationship and within the entire firm. Even great communicators will speak in guarded terms with a person they do not trust.

Before making recommendations in relation to your interpersonal knowledge strategy, we first need to answer the question of whether interpersonal knowledge strategy is worth the effort and the investment. Is facilitating a higher level of interpersonal communication skills and a higher level of social capital within your firm worth the effort—will it translate into improved performance that will yield service and bottom-line effects?

Recall David Maister's study in relation to the causes for variations in profit performance in professional services firms. His statistical study demonstrated that there are nine key factors that explain more than 50 percent of all variations in profit among his survey of professional services firms around the world.[2] Irrespective of country, size of practice, leverage model, and line of business, there were these nine factors, which taken as a group explained

over half of the profit variations. Those nine factors, expressed in the study as statements, were:

1. Client satisfaction is a top priority at our firm.
2. We have no room for those who put their personal agenda ahead of the interests of the clients or the office.
3. Those who contribute the most to the overall success of the office are the most highly rewarded.
4. Management gets the best work out of everybody in the office.
5. Around here you are required, not just encouraged, to learn and develop new skills.
6. We invest a significant amount of time in things that will pay off in the future.
7. People within our office always treat others with respect.
8. The quality of supervision on client projects is uniformly high.
9. The quality of the professionals in our office is as high as can be expected.[3]

Reviewing this list reveals that many are dependent on interpersonal interaction, trust, and social capital. There is trust that those who put their agenda ahead of the interests of the firm will not be tolerated. There is trust that those who contribute to the overall success of the office are the most highly rewarded. The belief that management gets the best work out of everybody in the office can occur only as the result of interpersonal communication and effort by all layers of management. A high level of social capital is evident in the criterion that people within the office always treat each other with respect. Note that "always" is a high standard that many professional services firms would not be able to meet—a very high but attainable standard. Finally, high-quality supervision on client engagements can occur only as the result of interpersonal communications and trust in the conduct of the engagement and the conduct of the supervision relationship.

Clearly, then, at least five of the nine factors that explain the variation in firm profitability are closely related to, and dependent upon, the level of trust and social capital within the firm.

Trust is even more important when we consider the lawyer/client relationship, and the factors that are relevant to clients in the selection of law firm and lawyer. In selecting a law firm, and a lawyer, clients have a legal issue to address and are seeking a trusted adviser to assist. Maister offers the following as common attributes of trusted advisers:

1. Seem to understand us, effortlessly, and like us
2. Are consistent (we can depend on them)
3. Always help us to see things from fresh perspectives
4. Don't try to force things on us
5. Help us think things through (it's our decision)
6. Don't substitute their judgment for ours

7. Don't panic or get over emotional (they stay calm)
8. Help us *think* and separate logic from our emotions
9. Criticize and correct us gently, lovingly
10. Don't pull their punches (we can rely on them to tell us the truth)
11. Are in it for the long haul (the relationship is more important than the current issue)
12. Give us reasoning (to help us think), not just their conclusions
13. Give us options, increase our understanding of those options, give us their recommendation, and let us choose
14. Challenge our assumptions (help us uncover the false assumptions we have been working under)
15. Make us feel comfortable and casual personally (but they take the issues seriously)
16. Act like a real person, not someone in a role
17. Are reliably on our side and always seem to have our interests at heart
18. Remember everything we ever told them (without notes)
19. Are always honorable (they don't gossip about others, and we trust their values)
20. Help us put our issues in context, often through the use of metaphors, stories, and anecdotes (few problems are completely unique)
21. Have a sense of humor to diffuse (our) tension in tough situations
22. Are smart (sometimes in ways we're not)[4]

How many of these attributes of the trusted adviser depend upon interpersonal communication and trust? How many of them are centered on the ability of the adviser to relate, as a human being, effectively to the client? The answer is that *all* of them relate to interpersonal communication and trust.

The conclusion we can draw is that trust, and interpersonal communication, are key elements both in law firm financial performance, and in the ability of lawyers and firms to be regarded as trusted advisers by their clients and therefore attract and retain clients.

Interpersonal Knowledge Transfer Ecology

In order to improve the speed and quantity of knowledge transfers between people (called the "velocity and viscosity" of knowledge transfers), we need to first understand the factors that affect the transfer of knowledge. Our starting proposition is that we have two lawyers. There is knowledge known by the first lawyer that would be of use to the second lawyer. Absent a Vulcan mind-meld, there will not be a perfect transfer of this knowledge between the two lawyers; indeed, any human process will always result in less than the total amount of "useful" knowledge being transferred.

Figure 10.2 outlines a knowledge ecology for this situation—the transfer of knowledge between two lawyers at a law firm. The stock of knowledge
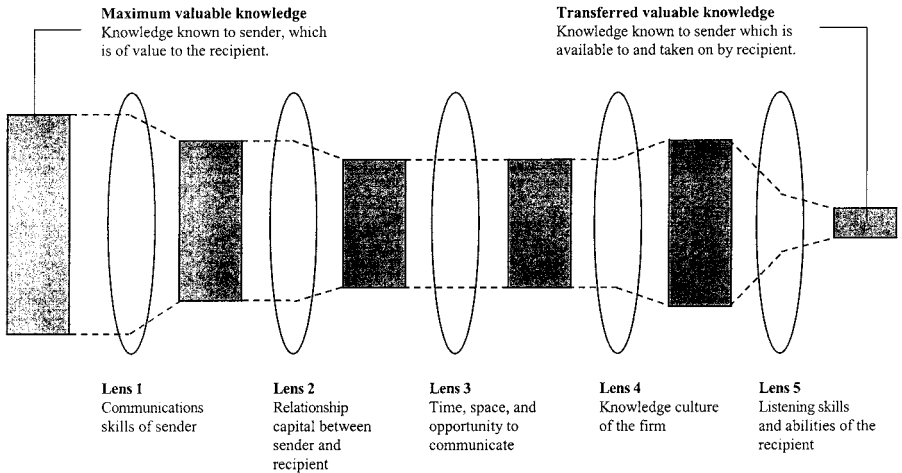
Figure 10.2. Interpersonal knowledge transfer ecology

known by the first lawyer that would be of value to the second lawyer is represented by the tall bar at the left side of the ecology. The stock of knowledge that is actually transferred to, and acquired by, the second lawyer is represented by the shorter bar at the right side of the ecology. This reflects the fact that there will always be less acquired by the recipient than the sender knows—there is no union of the two brains; there is a limited transfer.

The middle of the ecology comprises a series of lenses that act on the stock of knowledge known by the first lawyer on its journey toward and into the mind of the second lawyer. There are five lenses, each of which is discussed below.

Lens 1: Communications Skills of Sender

The first lens affecting the stock of potential knowledge to be transferred is the communications skill of the sender—specifically his ability to himself know what he knows, and then to communicate it in a form accessible by the recipient.

First, there is knowledge known to great lawyers that cannot be communicated in words to another, including judgment, gut feelings, and the intricate mental models built up through the totality of that person's life experiences. Most people are unable to intellectualize and separate the competing factors and nuances that contribute to these worldviews, and so those parts of the sender's knowledge will remain incommunicable to the recipient (although mentoring or apprenticeship may have a greater chance of transferring this type of knowledge).

Second, there is a range of competencies in lawyers in communicating concepts and experiences to another lawyer. It is a great skill to be able to

simplify a concept sufficiently to permit another to gain an understanding without losing the necessary complexity intrinsic in the concept. Vocabulary is important too: unless the vocabulary of the sender matches that of the recipient, no knowledge will be acquired. The sender must also be careful of assuming other related knowledge without which the recipient will be unable to grasp the knowledge that is being transferred. Communication is not a simple process.

The level of communications skills of the sender in this lens can only act to diminish the stock of knowledge that may be transferred to the recipient, and the degree of the reduction is a function of the level of skill of the sender. In other words, the greater the communication skills of the sender, the less the reduction in the stock of knowledge that is being transferred.

Lens 2: Relationship Capital between Sender and Recipient

The second lens affecting the stock of potential knowledge to be transferred is the relationship capital between the sender and the recipient.

Like the first lens, this lens can operate only to reduce the stock of knowledge that may be transferred to the recipient. For example, if the sender does not know the recipient—say, they are lawyers on opposite sides of the country who have never met—then the sender does not know that he possesses knowledge that would be useful to communicate to the recipient. Conversely, if the sender and recipient are good friends and close professional colleagues with a high degree of trust, cooperation, and collaboration, then it is likely that the sender will know that this knowledge is relevant and valuable to be communicated to the recipient. In those circumstances, the reduction in stock may be negligible or zero.

When considering the degree of knowledge transfer within an entire firm, the quality of the firm's social capital will determine the extent to which this lens reduces the stock of potential knowledge transferred and shared within the firm.

Lens 3: Time, Space, and Opportunity to Communicate

The third lens affecting the stock of potential knowledge to be transferred is whether the sender and the recipient have the time, space, and opportunity to communicate. If the two people never have an opportunity to communicate, then this lens will operate to reduce the stock of knowledge transferred to zero. Everything from the physical design of work environments to organizational attitudes to gossip and small talk affects whether the sender and recipient are likely to actually communicate. The existence of e-mail or other virtual or physical collaboration environments are factors to consider in determining the impact of this lens in a particular organizational context. Much attention has recently focused on nurturing communities of practice that have the effect

of increasing the amount of knowledge transferred by improving this lens, and increasing the relationship capital between sender and receiver.

Lens 4: Knowledge Culture of the Firm

The fourth lens impacting the stock of potential knowledge to be transferred is the knowledge culture of the firm, and this lens may both increase, and decrease, the stock of knowledge that may be transferred. If the knowledge culture of the firm is aggressively supportive of personal and collective knowledge, and knowledge is clearly on the management, leadership, and rewards agenda, then this lens may operate to undo the shrinkage caused by the previous lenses. This results from active steps taken by the sender to consciously consider the knowledge that may be valuable to be transferred, and to commit personal effort to the process of projection.

Conversely, if the knowledge culture is passive or negative, then this lens will operate to further reduce the amount of knowledge transferred from sender to recipient. If organizational culture and rewards systems actively discourage the sharing of information, or if they preclude time to attend to knowledge transfer behaviors, then this lens has the potential to choke potential knowledge transfer to nil. It is this lens that too often plagues law firm knowledge management initiatives, dramatically reducing the impact of the initiative.

Lens 5: Listening Skills and Abilities of the Recipient

The final lens affecting the stock of potential knowledge to be transferred is the listening skills and abilities of the recipient. This lens can operate only to reduce the stock of knowledge that is acquired.

So, how do you plant the seeds for enhanced social capital at your firm? How do you facilitate trust and effective conversations? How do you facilitate effective acquisition and projection of knowledge in the formal and informal interactions within your firm?

If we want to increase the amount of interpersonal knowledge transfers with the firm, then we need to understand each of the five lenses described above and have specific strategies to address them. Your interpersonal knowledge strategy should therefore have four elements:

- Development of knowledge communication skills (sender and recipient)
- Development of relationship capital between lawyers, specifically the social capital of the firm
- Provision and facilitation of time, space, and opportunity to communicate
- Development of the firm's knowledge culture

The last of these, development of the firm's knowledge culture, was discussed in chapter 6 and is not repeated. Each of the other three elements is discussed in turn below.

Development of Knowledge Communication Skills (Sender and Recipient)

One of the key subjects for training at law firms should be quality training in relation to all aspects of interpersonal communication. Lawyers are notoriously poor communicators, and training in this art will increase the firm's social capital, the quality of knowledge projection, and the quality of client service.

Your interpersonal knowledge strategy should include specific training in the following competencies:

- Conversation and introductions: "the joy of conversation"
- Delegation and supervision, supported by tools
- Effective working and team relationships
- Effective coaching, and appraisal processes for coach and team member
- Communicating with your secretary and support staff
- Listening: "the higher joy of listening"
- Respect, and how the firm communicates
- Building trust within the firm
- Building trust with clients
- Effective e-mail: how to write, when to use, and how to maintain social capital
- Building social networks.

Development of Social Capital

Cohen and Prusak define social capital as "the stock of active connections among people: the trust, mutual understanding, and shared values and behaviors that bind the members of human networks and communities and make cooperative action possible."[5]

In the context of a law firm, social capital is the stock of interpersonal connections among lawyers at the firm, among lawyers and support staff, and among support staff. The wider the connections, the deeper the trust, the higher the level of social capital. The social capital of the firm enables it to function and guides the quality and effectiveness of the relationships among its constituents.

According to Cohen and Prusak, high social capital can drive several important benefits for organizations:

- Better knowledge sharing, due to established trust relationships, common frames of reference and shared goals
- Lower transaction costs, due to a high level of trust and a cooperative spirit (both within the organization and between the organization and its customers and partners)
- Low turnover rates, reducing severance costs and hiring and training expenses, avoiding discontinuities associated with frequent personnel changes, and maintaining valuable organizational knowledge
- Greater coherence of action due to organizational stability and shared understanding[6]

While our primary interest is in increasing the degree of knowledge sharing within the firm, each of the other benefits of higher social capital has an economic impact on the firm, and turnover, in particular, is an issue that has plagued and continues to plague law firms.

To better understand how higher social capital leads to better knowledge sharing, I would like to break the concept of knowledge sharing into four distinct activities:

- Answering a question when asked for assistance
- Telling someone something that I know, unsolicited, often in informal discussions
- Actively projecting knowledge I have to someone to whom I believe it will be useful (i.e., distributing my knowledge)
- Actively taking steps to project knowledge that I have into an impersonal repository, or to human knowledge intermediaries who will not directly apply the information, but will combine, repackage, publish, and distribute as they consider appropriate

As previously discussed, the concept of knowledge sharing too often merely connotes the relatively passive activity indicated by the first bullet point above—responding to a question when asked for assistance. The depth of this interaction, and the assistance provided, is a function of the level of social capital at the firm, and the level of social capital between the individuals. If the relationship between the individuals is characterized by reciprocity, respect, friendship, trust, and respect, then the degree of assistance provided is likely to be high. If, however, the relationship is characterized by self-interest, distrust, lack of respect, and lack of reciprocity, little assistance is likely to be provided. Similarly, if the firm values collaboration and assisting others, quality assistance and sharing is likely to occur. Conversely, if the social capital of the firm is characterized by rewards based on the precept that you "eat what you kill," where personal billings are measured, reported, and valued, then assistance is likely to be provided only where a current client code for billing purposes can be provided.

The other three elements above are often overlooked in a simplistic discussion of knowledge sharing and are in fact more valuable than knowledge sharing as a simple response to a question.

The first of the three is the unsolicited projection of knowledge in an informal context—in other words, classic water-cooler or hallway conversation. "Did you hear that Jim has is working on a takeover defense again?" "What are you going to do with the new legislation? I've discussed it already with a couple of my clients," "Have your worked with Joe yet? He has a tremendous industry knowledge in telecommunications because he used to work with Telco for fifteen years."

Now, water-cooler conversation is likely to have a sprinkling of a lot of different content, from sports to gossip, work to weekends. Some management is too quick to try to reduce or eliminate gossip and social chat, thereby reducing the level of social capital in the firm. The objective is to augment and build on the informal discussions to generate a culture where the projection of work-related knowledge is a valued part of the dialogue.

Unless the culture is one of trust, professionals may be disinclined from talking about professional knowledge in informal contexts. Professionals are very concerned about perception—how they are regarded—and to venture into a technical discussion on an informal basis may expose an ignorance that they do not want to signal. In many firms, water-cooler conversation is entirely bereft of conversation about work-related issues. The concept of sharing with each other the types of work with which we are engaged, the issues we find interesting, or what's changing in the law is something that should be discussed in early induction programs and reinforced by actions of the firm's partners and opinion leaders in the way they relate to people in the office. If these things are absent from the informal conversational styles of opinion leaders, they will be absent from the conversational styles of most junior lawyers as well.

The second of these three situations is where someone actively projects knowledge to someone for whom they believe it will be useful or valuable. Few things get my attention more than items librarians or my colleagues take the time to select and forward to me because they think I would be interested in the material. Such selfless actions provide a source of knowledge acquisition that would not be possible without their assistance—essentially, it provides an additional layer of quality, filtered intelligence gathering.

This form of high-value knowledge projection depends upon two key factors:

- High social capital between the projector and the recipient
- A knowledge by the projector of the interests of the recipient

The reality is that the librarian does not send selective interesting materials to everyone in the firm—only the people he knows. To outsiders, it looks like favoritism, but while they remain outsiders to a relationship with the librarian, they would never receive the service. Without a relationship, there

was insufficient knowledge about the interests, and insufficient or zero social capital between the library and the particular lawyer in order for this form of knowledge sharing to occur.

Moving beyond the clear example of a librarian, consider the behaviors of partners and lawyers at the firm. How can we help each build an awareness of what the other is interested in and develop their preparedness to forward material likely to be of interest? Of course, selective distribution of material is what is required here, rather than sending every seemingly related piece of information to a person who will soon not thank you for your efforts. Law firms should consider ways to culturally embed behaviors where partners and lawyers actively plan, build, and review their social networks in the firm, and then actively take opportunities to forward material and other knowledge within those networks as appropriate.

It also follows that the behavior of law firm management must be consistent with the development of social capital. Members of management need to be leaders and living examples of

- Building trust
- Building and nurturing social networks
- Intolerance of behaviors contrary to the firm's values and social capital
- Leadership and coaching
- Great communicators, capable of outstanding listening and giving and receiving constructive (honest) positive and negative feedback

If management does not lead in this area, exhortations to the firm to build its social capital will fall on barren ground.

Time, Space, and Opportunity to Communicate

Communication, face-to-face, virtual, or otherwise, requires a time, space, and opportunity to happen. You need to consider how you can increase the time, space, and opportunity to communicate within the firm. As an exercise, observe the places where informal communication occurs within your office. You should also review what happens when people move from your front door to their desk in the morning, and when returning from lunch, and how they move from their desk to the front door. In some offices, this path is considered an unfortunate annoyance as the lawyer passes mutely and quickly past the offices and desks of lawyers and support staff that she does not know or care to know. In other offices, greetings are exchanged, formal and informal information and knowledge are shared, and a higher degree of knowledge projection occurs.

The design goal of many office renovation projects of the 1990s was to maximize usable office space in order to reduce rent costs and drive office space productivity. These initiatives may yield a slightly lower rent cost, but often they severely injure the social capital of the firm and diminish both the opportunity for informal communication and the chance for unexpected

meetings. Leading designers of office space are now beginning to design office environments where the walk spaces are designed to maximize the chance of unexpected opportunities for interaction and compel groups of people to get to know each other a little better.

In addition to considering the physical office environment, another way to provide time, space, and opportunity to communicate in order to increase the degree of projection of knowledge is to support and facilitate communities of practice. The leading work on Communities of Practice is *Cultivating Communities of Practice*, and you must read it before planning your interpersonal knowledge strategy.[7]

A community of practice is essentially a group of people brought together by their common interest, rather than being brought together as part of a project or client-serving engagement. Practice groups in law firms are classic communities of practice in this respect, however many practice group meetings are anything but effective communities of practice. The authors of *Cultivating Communities of Practice* define communities of practice as "groups of people who share a concern, a set of problems, or a passion about a topic, and who deepen their knowledge and expertise in this area by interacting on an ongoing basis."[8] The important distinction is that the members in a community of practice desire to, and do, deepen their knowledge and expertise in an area by interacting on an ongoing basis. In many law firms, practice group meetings are the mechanism by which lawyers fulfill their requirement for continuing education and are often briefed about the administrative and other issues going on within the practice group.

Your strategy for communities of practice within the firm needs to focus on reviewing your existing practice group meeting structures and any other communities of practice that exist within the firm. For example, how seriously viewed are attendance and participation at these meetings? Do all of the partners attend? Who runs the group and the agenda, and who is chosen to present material? Are they well regarded within the group, or is this role within the practice group viewed as a necessary part of the group but not a badge of honor for those in the role? Is there a culture of continual learning to develop an outstanding competence in the area of law, or are continuing-learning requirements regarded as a chore to be dealt with in the easiest way possible—preferably by checking videotapes out of the library never to be watched?

You should consider establishing separate communities of practice for legal issues and disciplines from your administrative practice group structures. In this way, membership of the practice-oriented community can be managed with a clear objective, rather than subordinated to the business of the practice group. Attendance and participation in the community of practice should be attributes considered in performance assessment processes. The community of practice should be supported with an electronic repository of all of the legal papers and discussions that occur at the meetings as an archive for review. You should also consider maintaining a published register of articles and publish-

ing activities of lawyers in your community of practice, and of those lawyers in the same practice group located in other offices and countries.

The administrative meeting then provides the forum to discuss marketing, current matters, competitive intelligence, tenders won and lost, financial and operational performance, and any major initiatives within the firm. These administrative details should also be warehoused electronically for subsequent review, but housed separately from the legal materials.

We have now discussed projects that you should consider in the formulation of the first two components of your knowledge strategy: your personal knowledge strategy and your interpersonal knowledge strategy. You should develop these two strategies within the firm before starting the planning on the final component of your knowledge strategy: your impersonal or digital knowledge strategy, which is discussed in the next chapter.

11

Impersonal and Digital Knowledge Strategy

Knowledge signifies things known. Where there are no things known, there is no knowledge. Where there are no things to be known, there can be no knowledge. We have observed that every science, that is, every branch of knowledge, is compounded of certain facts, of which our sensations furnish the evidence. Where no such evidence is supplied, we are without data; we are without first premises; and when, without these, we attempt to build up a science, we do as those who raise edifices without foundations. And what do such builders construct? Castles in the air.
—Frances Wright

This chapter provides ideas for you to consider in relation to the third dimension of your knowledge strategy, your impersonal and digital knowledge strategy.

There is no single blueprint for digital knowledge strategy for law firms—it depends upon *your* culture, *your* organizational strategy, and the nature of the work *you* do for *your* clients. Remember, knowledge management is a discipline of facilitating a greater degree of actionable knowledge than would occur naturally in your firm. The particular initiatives that will unlock the greatest value will vary tremendously with the nature of the firm and its stage of development and implementation of elements of a knowledge strategy.

Having said that, however, there are certain items that are common to all law firms, particularly in relation to foundation aspects that underpin all subsequent initiatives. Irrespective of your firm's knowledge maturity, your knowledge strategy will need to address these things, and it is to these foundations that we first turn our attention.

Efficiency Foundations: The Oft-Ignored but Mandatory Basics

The success of your strategy and initiatives in relation to this third dimension of knowledge strategy, impersonal and digital knowledge strategy, depends upon certain foundations. Sadly, these foundations are not often found in many law firm knowledge initiatives, and their absence limits the success

and sustainability of those digital initiatives. These foundations are the often ignored but *mandatory* basics.

The foundations for digital knowledge strategy are:

- Document and drafting style standards for all document types typically created in the firm
- Word processing tools to automate and embed the firm's document style standards
- Taxonomies, or categories, for matter, document, legal issues, and expertise
- A document management system creatively deployed with appropriate metadata and elegant integration into the lawyers' authoring and editing environment
- An e-mail system with appropriate rules, guidelines, training, and customization
- An accurate and simple people directory service
- A standard computing environment, including browsers with all appropriate plug-ins

I will examine each of these foundations in turn, first discussing the particular foundation and then making recommendations for your digital knowledge strategy.

Document and Drafting Style Standards for All Document Types

As discussed in chapter 4, one of the primary things lawyers do is produce documents. In fact, they produce a wide variety of documents, and the first foundation is the creation and publication of style standards for all of the typical documents produced by your firm.

For some firms, the importance of a style guide is a core belief about firm identity and the branding of the product it sells to clients. For others, it is purely about productivity and efficiency in the creation, editing, and reuse of authoring materials. If a multiplicity of document styles and approaches is permitted within the firm, more support and word processing staff are required to process the same quantity of work simply because of the difficulty in working with nonstandard material. Even cutting and pasting material from one document to another would be fraught with difficulty.

In the early 1990s, my firm, like many others, used a proprietary Wang word processing system, which, while not a graphical user interface, produced quite acceptable documents if you like one type size and font throughout your document. Significantly, in those days, lawyers were given edit rights on the Wang system only if they could demonstrate to the satisfaction of the head of the word processing pool that they were *capable* of producing documents in firm style and properly using the Wang software. If you could not demonstrate sufficient knowledge and skill at creating documents in the appropriate way, you were not given access rights. They simply did not want

to waste the time of word processing operators in performing open-heart surgery on disasters of documents created by lawyers with the best of intentions and the worst of skills.

While by the standards of today's open and user-centric computing environment this sounds a little draconian, what this policy did do was ensure the quality and style of all of the documents created at the firm. Word processing operators did not have to work with documents that were structurally unsound, with the litany of spaces and tabs so typical of novice users of a word processing environment.

With that firm's shift from Wang to PCs, suddenly everyone gained access to create and edit documents, no longer having to prove their competence before driving the word processing software to create and edit documents.

As a result, the universal quality of the structure, style, and creation of documents actually got significantly worse. The message here is that if you let lawyers create and edit documents, which I encourage you to do, you need to make sure that there are standards and that they know what they are doing. You need to make sure that creating documents consistent with the firm's standards is easy, and you need to invest the time and effort to make sure that the word processing skills of your lawyers are up to snuff. Otherwise, the lawyers waste time tinkering and getting frustrated, and you are spending additional support time and cost to make up for your lawyers' lack of skill—and the productivity tool will actually cost you more money.

The creation and publication of standards for documents, and your firm's style of writing, are an important foundation for law firm knowledge strategy. These standards prescribe the format and approach for the creation of precedents and forms and are supplemented with productivity tools in relation to the creation and editing of documents. Before you can embark on any program to create document templates, forms, or precedents, you simply must have certainty about your firm's style. Otherwise, you will subsequently have to amend every document you create, and worse still, you will be unable to leverage common elements and clauses of documents because of the incompatibility of styles within the documents.

There is a range of documents lawyers create in providing services to clients, in winning work, and in marketing communications, listed in table 11.1. You should have a standard style and template for each of these document types.

In setting these standards, you need to carefully ensure that your style is capable of rapid creation and editing (for you and your clients), else the style will become a productivity leech and a source of serious client frustration. The output of this work should be a first-class style and example manual issued to all lawyers and document preparation staff. The publication of the style manual also provides an opportunity to present other messages to lawyers and document preparation staff. For example, the publication should include a preamble that anchors back to the history and strength of

the firm, the desire of its partners and professionals for a recognizable firm style, and the need for consistency of quality and approach in providing service to clients.

The style guidelines should be published in physical and electronic formats. You should consider publishing a hardcover book that includes the explanatory text and example documents for each of the formats. These documents are not subject to frequent change, and the hardcover format signals to lawyers the significance of the content. The volumes should be serial-numbered or bar-coded and returned should the lawyer leave the firm. Ideally, the books, and their custody, should be managed by the library borrowing system and managed as library items.

The style guidelines and examples should themselves be word processing documents (not desktop publishing documents), and available from within the word processing environment by incorporation into document creation and precedent access toolbars (see below). The style guidelines and examples should also be available as PDF versions (with appropriate thumbnails and bookmark navigation menu) on your intranet.

The timing of the release of the elements to lawyers is also important. The order and dates for delivery of the elements should be announced and then strictly followed. Unlike many other knowledge management initiatives, these initiatives will be immediately used by all lawyers in the firm, and the professionalism of the process in which they are delivered will set the benchmark for future initiatives from the knowledge management team. Every opportunity should be taken to ensure that expectations are managed, met, and (if possible) exceeded.

Performance appraisal processes for lawyers, and support staff, should be amended to include proficiency and compliance with the firm's legal and non-legal document styles. The style guidelines should be approved by the board as a board policy, and a statement of firm policy should be created outlining the expectations of the firm in relation to usage of and adherence to the firm style guidelines.

Word Processing Tools to Automate and Embed the Firm's Document Style Standards

Many leading firms have excellent style manuals; however, they do not take the next step of creating word processing tools to automate the creation of documents consistent with the espoused styles. The result is poor compliance rates, as it is simply too hard to create documents consistent with the style without tools and assistance.

Modern word processors have enormous knowledge-worker productivity potential, but are too often deployed out of the box rather than customized to support business processes. I suspect that this failure to tune the word processing environment to the needs of the firm and its lawyers results from

Table 11.1
Document types for specific styles

Legal documents	Marketing documents	Management documents
Letters	Proposals or tenders	Board policies
Faxes	Lawyer résumés	Firm policies
E-mail	Practice area publications	Practice group business
Agreements	(printed or Web-based	plans
Memos	updates)	Personal business plans
Briefs to counsel	E-mail updates	Personal knowledge
Presentations	Fax updates	strategies
(PowerPoint)		Partner-nomination
Research memos		documents
		Senior-associate
		nomination documents
		Project plans for internal
		projects or investments

a range of different reasons related to the identity of the group with primary responsibility for the specification of the word processing environment:

- If the *IT function* is responsible for the deployment, support, and upgrade of the word processing environment, their focus is on deploying the software and ensuring its stability. Without an understanding of what lawyers and support staff actually do with the software, the contribution that the IT staff can make is limited to ensuring stability.
- If an *IT partner* is responsible for the specification of the word processing environment, he usually does not have either enough technical knowledge about possible functions of Word and its programming language, or enough knowledge about what lawyers and support staff actually do with the software in creating and editing documents, to be innovative.
- If the *word processing and document production staff* is responsible for the specification, staff members' technical knowledge of programming and customizing software environments is generally quite limited. Often the head of the document production or word processing department is an old hand with the firm, rarely a computer guru beyond having efficient fingers that drive Word in a fast, although conventional, manner. Alternatively, in some firms, the head of the document production department is more a scheduler and project manager of word processing resources rather than a technical specialist, such that his focus, like the

Table 11.1
(*Continued*)

Matter Process documents	Online documents	Internal publications
Bills	Intranet content	Practice group newsletters or updates
Matter update reports	Internet content	
Deal books		Daily alert service from the library and marketing
		E-mail communications from support functions
		Current awareness services from the library
		Technology manuals (laptop manual, software manuals)
		Legal training materials
		Quick guides (single-page guides for ready reference)

IT function, is about ensuring predictability and certainty. Indeed, he may actively favor a vanilla deployment of the word processing software to reduce induction training for new word processing operators.

With that in mind, the first thing we will do is expand your mind about what is possible in the humble word processor.

The fastest and easiest way to do this is by talking about a series of beliefs about Word. Set out below are my beliefs about Word, my mental model that I use when thinking about documents and lawyers. These are the beliefs that underpin the firm in John's story in chapter 8. There are six key beliefs:

1. I believe that all of the menus and toolbars of Word can be modified as *we* choose to make life *easier* for our lawyers and staff.
2. I believe that *any* process that our lawyers and staff regularly do can be automated and invoked with the press of a button we can create.
3. I believe that we can create toolbars and dialogue boxes that can interact with our document management system *without* our lawyers having to manually search for documents like precedents and forms.
4. I believe that we can create buttons and dialogue boxes to directly access and use the contact information within Outlook, and integrate that information into the creation of letters, faxes, and other documents.

5. I believe that *we* can create buttons and dialog boxes that directly access content on our intranet, and the Internet, helping our lawyers find content relevant to what they are doing, including legal content, training materials, and quick guides.
6. I believe that we can create elegant and user-friendly dialog boxes to shield our lawyers from having to complete the document profile screen from our document management system when creating a new document. We can solicit necessary information in an elegant interface and intelligently autocomplete information in the document management system depending on the type of document our lawyers and staff are creating.

These are the beliefs that should guide your thinking processes in customizing your document production environment. These are the beliefs that guided the thinking of John's firm in the story. It is not necessary that you understand the specifics of how to program using Visual Basic, Word's programming language, to achieve these things—that can easily be hired out. What you do absolutely need to have is a sense of what is *possible*. Without knowing what is possible, you cannot dream.

At a minimum, your strategy should include a toolbar in Word, like the Lawyer's Toolbar, from which your lawyers can create new documents consistent with your style manual and access the various components of the style manual. This toolbar is of central importance in your digital knowledge strategy—it is the way that your lawyers access a range of commonly used tools.

A sample Lawyer's Toolbar and a numbering toolbar are pictured in figure 11.1.

A detailed explanation of each of these buttons was set out in John's story and is not repeated here. However, what I do want you to know is that it is
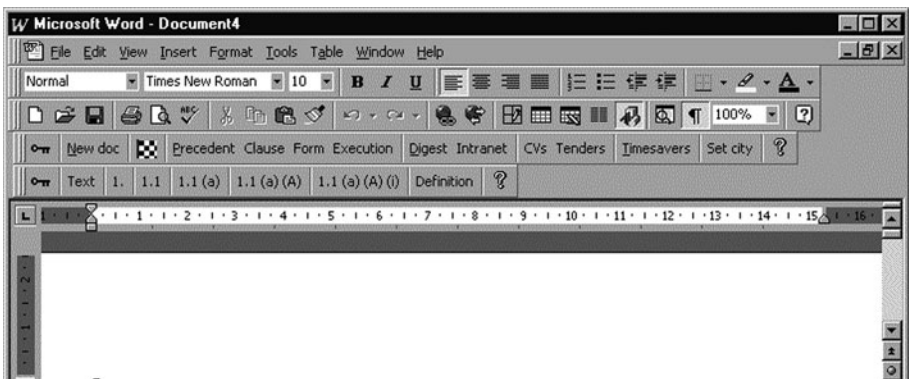
Figure 11.1. An example of the Lawyer's Toolbar

neither difficult, nor particularly expensive, to customize Word to do this. Every law firm should do this for its lawyers. There are no excuses for failing to do so.

As mentioned in John's story, typical legal documents can be very complicated in their structure and numbering schemes. It is simply too hard to remember the names of all of the styles involved, or for busy lawyers to work out nested numbering schemes without assistance. If it is not easy, well-intentioned lawyers and secretaries will make sure that the client receives a document that looks right when printed, whether that is with manual numbering, manual tables of contents, wrong fonts, or indents scrambled. It must be easy, or lawyers and secretaries will quite literally blow documents up and take far too long and curse far too often in doing so.

A style and numbering toolbar is a simple and easy way to enable lawyers and secretaries to make sure that the text they are editing uses the right formats for the particular style of document without any effort beyond clicking a button. While the numbering toolbar will be different for each template to match your design, an example of a numbering toolbar is included in figure 11.1.

A full description of the operation of a numbering toolbar is set out in John's story. In summary, all you do is put your cursor in the paragraph you are working on, and then click the button for the level of numbering that the paragraph should be and everything else is done for you. Too easy—there are no excuses for firms not to provide this functionality for their lawyers.

Further, there are a range of common word processing functions that should be automated, like the generation and regeneration of tables of contents, the insertion of cover pages for documents, and the conversion of one document type to another. Discussions with lawyers and secretaries will yield a host of tasks that if intelligently and elegantly automated would save considerable time and increase the consistency of adherence to the style manual.

Several accompanying educational materials should also be provided in connection with the style guidelines and the toolbars, including:

- *Electronic document conversion tools* to assist with the conversion of documents in old styles to the new style (in many cases, only limited assistance will be available, and manual word processing of prior documents will be necessary where material is to be used from previous documents)
- *Quick guides* for the use of the electronic tools (one-page help guides for printing and sticking on walls)
- *Viewlets* providing online tutorials of the use of the tools and the document styles
- A *firm style home page* on the firm's intranet warehousing the various resources, details of the history and management of the firm's style, and examples and comments on the styles used by other major firms

Matter, Document, Legal Issue, and Expertise Taxonomies

The next efficiency item to focus attention on is a series of taxonomies. *Taxonomy* is a fancy term for a list of categories—a scheme of classification.

I confess that I have traveled a personal journey in relation to taxonomies. I once watched a thesaurus project championed by the national head of the library with the best of intentions. When the project was abandoned, it had been in the wilderness for over three years, mired in definitional impasses, marooned by apathy. It was a project the very mention of which would evoke either a glazed expression or an urgent need to change the subject.

I concluded that law firms were not fertile ground for the development of taxonomies, and therefore favored a more laissez-faire development of taxonomies within the context of practice-area-specific knowledge collections.

In the absence of three key taxonomies, however, these laissez-faire, practice-area-specific efforts become splintered and difficult to scale, and they remain forever without the value of integration. These laissez-faire projects tend to reach a threshold level and cannot make progress beyond it for lack of structure and integration with the firm's overall information architecture, and with the efforts of other practice areas where content overlaps. That lack of cohesiveness then places the systems at risk to internal attack for not being consistent or universal, and the development and use of these systems is quickly undermined by naysayers who can all too easily point to the apparent fatal shortcomings of lack of consistency.

Depending on the investment choices that a firm makes, there can be up to four different taxonomies required. Irrespective of investment choices, however, there is one must-have taxonomy, which is a classification scheme for the types of matters the firm undertakes. The other three taxonomies are necessary only if the firm decides to embark upon investment projects to share collective knowledge in the form of knowledge work outputs from prior work, or to have an organizational yellow pages of skills.

For completeness, each of the four taxonomies is identified and discussed below, however, only the first of these, the matter type taxonomy, is a must-have for all firms. The four taxonomies are:

- A matter type taxonomy (the only *must-have*)
- A transaction document taxonomy
- A legal issue taxonomy
- A legal expertise taxonomy

The Matter Type Taxonomy: A Must-Have

This taxonomy, to classify matters, is used at a minimum in the firm's practice management system to describe the matters undertaken by the firm. In many firms, these categories are kept to a very small list, capable of display on a physical form, to keep the form short because a large number of categories

would be confusing. But with a short list lawyers are often unable to find the appropriate descriptor for the matter at hand, and they therefore nominate a general, catch-all description that is inevitably provided on the form. In one major firm, up to 80 percent of all corporate-law matters were opened as "corporate general" for this reason.

But why is this important?

Accurate and specific classification of matters is important for a range of functions, including the following:

- Providing information to better manage the practice by enabling segmentation and analysis of the work done in particular practice areas, according to both volume and profitability
- Providing information about costs and profitability in relation to particular kinds of matters that can then be used when pitching for, and estimating costs for, that type of work, in the future
- Reducing the costs of complying with third-party surveys for league tables on transactions done by the firm

It has been said that the first major firm to create a complete matter taxonomy did so to enable more efficient compliance with external surveys about the performance of the firm and the matters in which it was engaged. Neil Cameron says that some firms worked this one out a while ago: "About 20 years ago, Linklaters developed what it called a Transaction Indexing system. This was not linked to time and billing and was only used for large commercial transactions of particular types, but it enabled them to classify and find past transactions that matched specific descriptive criteria. It was used largely for legal journals' league tables of big deals."[1]

As to the advantages of such a system of matter classification, Cameron continues:

But think of the things you could do with such a system. You could go to your screen desperate to find information on "matters like this one"—and actually find them. Say you were preparing a bid—and costings—for a big job involving joint venture funding of a government hydro-electric development in the Far East. You could search on the integrated know-how system and find, in one go, ranked in order of relevance:

- Five matters (with previous cost estimates and actual overruns);
- The fee earners who worked on the bids and those who worked on the jobs;
- The presentations and experience statements prepared for the bids, and the documents produced;
- All relevant standard forms and precedents and other Infobank-type material, such as law journal articles, counsels' opinions and internal notes;

- Relevant Web-based information such as cases, laws and news stories

The matter taxonomy is likely to be a multitiered hierarchy, in other words, one capable of drill down, like folders in Microsoft Outlook, or the folders in Windows Explorer. This would then enable summary of information by categories for the purpose of preparing proposals for clients, or strategic practice reviews. The matter classification would also then provide the ability to produce reports by lawyer on the type of work that the lawyer has been involved in during the period being assessed for performance.

In many firms, lawyers have no easy way of engaging in a discussion with their supervising partners about the kind of work they have done, and the kind of work they would like to do in order to further their interests, and their career. Often, all that can be provided from the practice management system is a list of matters on which the lawyer has recorded time, and the amount of the time that was billed, and the amount of the time that was recorded which has been written off. The practice management system provides no support for identifying the *types* of work in which the lawyer has been involved.

The ability for partners, in particular, to leverage the hard-won knowledge of the firm in relation to the typical costs of similar matters completed in the past cannot be overestimated. At the end of a practice group consultation process that I ran in a sizable office of over 150 lawyers, a senior partner came up to me after the presentation was over. "Matthew," he said, "all this stuff is great, and I agree, but the biggest difference you could make for us, and where we could make the most money, is by knowing what things have cost in the past on similar matters. We lose so much money every year by underestimating the costs of a matter for a client, and then writing off the time we actually spend."

All of this information can be made available, together with matter profitability analysis, if and only if the matters are classified according to a business-oriented taxonomy created, maintained, and extended by the firm.

Importantly, the taxonomy will need to be dynamic—as the firm moves into new areas, and is asked by its clients to address new issues, it will be necessary to make appropriate extensions to the taxonomy. This should be expected, and the processes for extension of the taxonomy should be articulated in the original planning, and not unduly process-bound.

When opening a matter, if the lawyer or partner cannot find the appropriate classification in the lists in the *Keys* volume, there should be a telephone number to call to discuss the type of the matter and seek guidance in relation to either the appropriate existing category, or to make request for an appropriate extension to the taxonomy. This call center (which may consist of one person) also serves the purpose of coordinating the efforts across the firm in new areas of practice. When a category has recently been created, and another caller calls with a similar matter, the call center can provide the contact details

for the name of the lawyer who is working on a similar, novel transaction for the firm. Ideally, this call center would be located in marketing, or the library, and not in the finance department.

Optional Taxonomies Depending on Investment Decisions

If the firm's service proposition to clients is that clients are entitled to the firm's collective expertise, then there are three additional, different taxonomies that will be required. Importantly, this is an investment choice for the firm to make. As discussed in previous chapters, knowledge management for the sake of having knowledge management is an expensive waste of money. However, if part of the identity of the firm, and the value proposition that attracts and retains clients, relates to uniformity of quality service and the application of the firm's collective knowledge to the conduct of clients' matters, then properly managing knowledge is no longer optional but required.

The three additional taxonomies, then, are:

1. A transaction document taxonomy
2. A legal issue taxonomy
3. A legal expertise taxonomy

A common question asked is "why do firms need three more separate and distinct taxonomies—why can't they use or augment the matter type taxonomy and therefore have only one taxonomy used consistently throughout the organization?" This question proceeds from the assumption that convergence is a per se good in all situations, which it is not.

Consider the ever-sophisticated mobile phone. My wife upgraded to the latest phone, which had no buttons, a touch screen, and supposedly all of the features and functionality of a PalmPilot. Sadly, whenever she was on the phone and wanted to read a telephone number, or check her diary, she was stuck—because checking the diary would disconnect her call. Needless to say, she soon returned to a phone with buttons for making telephone calls. Different needs require different solutions. Convergence without regard to functionality and purpose is not a good per se.

The *transaction document taxonomy* is simply a different beast from the firm's matter type taxonomy. A particular transaction document may feature in a whole range of different matters. When a lawyer is trying to locate a particular transaction document, it is easier to look for the document, rather than first consider the types of transactions in which the document may be used, and then try to find the right one. Lawyers think in terms of documents, and this taxonomy, used as an index to the Digest (for a description of the Digest, see John's story in chapter 8), enables lawyers to quickly locate the firm's knowledge and resources in relation to particular types of documents.

Consider how a lawyer maintains his personal collection of reference documents. There will usually be a physical folder for each document type, not only a folder for each type of matter. Your institutional system should

borrow heavily from the way lawyers approach their knowledge management without the intervention of the knowledge initiatives.

The *legal issue taxonomy* is the natural complement to the transaction document taxonomy. Again, consider how a lawyer assembles his personal knowledge collection. In addition to folders of materials for particular transaction documents, the lawyer also usually collects material around legal issues. In particular, you see this behavior in advisory practices, where the work output is not a transaction document but the application of the law to a fact situation for the purpose of providing advice. Here, the lawyer will collect examples of prior advice in relation to the particular issue, in addition to conference papers, articles, reported cases—any materials that pertain to the particular legal issue.

Importantly, this is an entirely different taxonomy to the transaction document taxonomy. Indeed, when a lawyer is looking for information about a particular legal issue it would be confusing to see an index crowded with transaction documents. The taxonomy for legal issues is more akin to the index structure of a legal encyclopedia than to the table of contents for a volume of forms and precedents. They are two essentially different collections of knowledge that should be managed and indexed according to their particular contents and structures.

The distinction and separation between them must be preserved to resonate with the brain of a lawyer when they are using the materials—seeking either help to draft a transaction document, or assistance in understanding a legal issue.

The legal issue taxonomy is likely to be used both by the knowledge repository (the Online Digest) and also by the library database to classify library materials. Within any firm, there will already be an existing taxonomy in the library being used to classify library resources, and it is this taxonomy that should be modified and then shared with the knowledge initiative.

A Document Management System with Appropriate Metadata

The next foundation for digital or impersonal knowledge strategy is a document management system. Any of the major document management systems (iManage, PC Docs, Documentum) are competent at storing documents and allocating a document number so that retrieval is relatively painless. What is important, however, is the way that you deploy the document management system within the law firm. In that deployment, there are three principal issues to consider.

1. The *first issue* is what information will be stored about the documents—that is, what information are you going to record about the documents in the document profiles stored by the document management system. In other words, what fields are you going to store?

2. The *second issue* is how you are going to integrate the document management system with the authoring environment, and how you are going to leverage information in the practice management system about clients and matters to make creating documents and completing document profiles easier for your people.
3. The *third issue* is what documents you are going to store in your document management system—is it just for working documents, or does it also include knowledge repositories of documents created by your firm or by others?

Earlier we discussed some key beliefs about Word that can anchor your thinking about what is possible in the word processing environment. The same is true about document management systems. There is a small list of key beliefs about document management systems that, once known, can open your mind to possibilities. The key beliefs in relation to document management systems are these:

- I believe that our document management system lets *us* determine what information to store about documents, although there is a limit to the number and type of fields we can store. For example, we may be given three number fields, six text fields, and some fields that can lookup a controlled list of values we provide. There is no "standard" set of fields for all law firms, and we should devote significant innovation time to considering how to set up our fields in our document management system to best suit our lawyers and our practice.
- I believe that *we* can change the appearance of the document profile screen and the search screen to make it more user friendly, to add helpful messages for our people, and to cluster like information in an elegant way.
- I believe that all of the functions of the document management system, including searching for documents, completing document profiles, security changes—everything—can be accessed programmatically from within Word *without* the lawyers having to do the hard work themselves. For example, when creating a new document, we can create an elegant dialog box which intelligently precompletes information for our lawyers, uses information from Outlook or any other source, and can then send all of the information to the document management system to create a new document and complete the profile.

As a suggestion to get you started, and to review your current document management system setup, you should consider the fields outlined in table 11.2 in your document profiles.

The moral of the story is that your document management system will come with powerful search abilities (searching document content and the information in the document profiles), which you can use to make admin-

Table 11.2
Recommended fields for the document profile

Document number	Allocated by the system
Date created	Date the document was added to the system
Document title	Created according to standard conventions within the firm, e.g., "Letter—Bob Smith re Acme Limited"
Author	Lawyer creating the document
Responsible partner	Partner responsible for the matter
Client name	Client name
Matter number	The matter number from the practice management system for the matter
Matter description	The text description of the matter from the practice management system
Editor	Person who used the computer to create the document
Status	Either *uncompleted*, *completed transaction document*, *continual working document*, or *completed with no continuing value*
Document type	Type of document (letter, memo, fax, agreement, tender, etc.)
Document taxonomy	The taxonomy entry for the particular type of document
Source	Source of the document—was it created at the firm, sent from the client, prepared by another law firm, etc.
Original source date	Date the electronic document originally bore (this will be different from the date the document was introduced to the system)
Precedent	Yes/no—is the document a precedent?
Precedent number	Allocated number for the precedent, where applicable
Digest processed	Yes/no field that defaults to *no*. When a document is completed, the Digest people can then search for documents that have been completed but not yet processed into the Digest. When they have processed the document into the correct places in the Digest, this field is set to *yes*.
Document description	Optional description of the document
Office	Office location
Practice group	Practice group for the document
Type of electronic document	The application used to create the document (Word, PowerPoint, etc.)

istrative processes (like identifying documents to be harvested into the Digest) much easier if you structure your fields to include the appropriate information.

An E-Mail System with Appropriate Rules, Guidelines, and Training

No modern law firm, or knowledge work office, can exist without e-mail, generally in the form of either Lotus Notes or Microsoft Exchange/Outlook. Whatever the type of e-mail, you need to ensure that your digital knowledge strategy includes policies and procedures in relation to e-mail, and specific training to make sure e-mail is used productively.

Your e-mail policies should address:

- *Privacy*: Does the firm have the right to read any inbound and outbound messages in the e-mail files of its lawyers and staff?
- *Content*: What content to a client can be in an e-mail as distinct from a document attached to an e-mail. For example, the informality, speed, and general lack of contemplation and review in creating most e-mail messages may be ill suited to the provision of legal advice. Consider whether as a matter of policy any legal advice should always be in a settled, attached letter (which is securely housed in the document management system) rather than in the body of an e-mail.
- *Mailing lists*: What policy and disciplines should govern "all-firm" mailing lists to prevent e-mail blizzards being received by all staff about mundane messages? You need to consider what types of messages are appropriate and what are inappropriate. Where, for example, you decide that messages advertising articles for sale are not appropriate, endeavor to make sure that another forum is provided for the traffic; otherwise your rule will be honored in the breach.
- *Storage*: With so much matter correspondence now occurring in e-mail, you need to consider your policy in relation to the printing or electronic storage of matter-related messages. If your matter files are still physical, which I suspect will remain the case for many, many years, then you should consider a policy of printing all inbound and outbound messages and attachments that relate to the progress of the matter and filing them in the matter file.
- *Education*: At a minimum, all lawyers need to know how to attach documents, how to rename documents from the document management system with meaningful names for clients, how to set out-of-office messages, how to set e-mail rules, and how to avoid the "reply to all" button. You should consider renaming the reply to all button in your standard installation of e-mail to something like "CAREFUL: Reply to all," which is easily and quickly done and will save a deal of grief. Lawyers and sup-

port staff also need training and guidelines in relation to taming the e-mail beast—otherwise they risk becoming unproductive screen jockeys with their attention flitting from new e-mail to new e-mail.

An Accurate and Simple People Directory Service

The next element of the foundations is a searchable, accurate, and accessible database of people and service information at the firm. This database needs to have the typical human resources information in relation to every lawyer and support person at the firm, including name, office location, practice area, and contact information, including office telephone number, cell phone number, and e-mail addresses. In many organizations, the people directory is the highest hit service on their intranet for the sole reason that the information that it contains is immediately understandable, usable, and in high demand. In these days of very cheap digital cameras, each person's entry should also have a picture.

The information displayed in the people directory must always be accurate, which means that it will be necessary to either utilize the data from the firm's human resources system, or have rigorous processes by which the two are maintained in sync. Credibility of the database will be significantly diminished if the contact details for recent hires do not appear for months, or if they appear incompletely and inaccurately. Where the firm also produces a physical telephone directory, the information in the directory and the online people database must be the same as on the date the physical directory is printed—in other words, subsequent updates can be made to the online database, but the physical directory should never be more accurate than the electronic version. While we are talking about the print version, there are very strong reasons to ensure that the firm produces a first-class physical telephone directory. Not only can the telephone directory be used without booting a computer, it can also be used without disturbing the information that is presently being displayed on the computer screen. Of course, there will be some for whom the electronic versions suffices; however, there will be many for whom a physical, elegant directory will be more productive.

A Standard Computing Environment, Including Browsers with All Appropriate Plug-Ins

The final element of the foundations is a standard computing environment for all lawyers and support staff, with all appropriate plug-ins. The standardization of the computing environment is suggested for two reasons.

The first reason is to reduce the cost and complexity of support, thus ensuring that a higher proportion of the technology budget is spent on

training and productivity tools rather than providing support to a diversity of environments. It is simply too expensive and complex for your technology group to have to first spend time understanding the setup of a particular computer before being able to assist one of your partners, lawyers, or support staff with a problem. A standard "image" should be created for a typical lawyer computer, and a standard "image" should be created for a typical support-staff computer. Most of the major firms have had these disciplines in place for several years, and the structure should be adopted by all firms regardless of size. Where specialized additional applications are installed on particular computers, the manner and method in which they are installed should also be standardized—including the physical placement on the computer and the default settings and templates that are made available. Finally, consideration needs to be given to the processes that will be used when upgrades to software suites are provided, and the impacts of those changes on any local settings that have been created by the particular user to support their particular work processes. It is inexcusable to destroy an intelligent user's careful customization of their environment when providing a firmwide "upgrade."

The second reason to provide a fully featured standardized environment relates to the use and usability of the person's Internet browser. The operation of a typical browser (like Microsoft's Internet Explorer, or Netscape Navigator) often depends on enhancements or plug-ins that are made available by other software houses. For example, PDF (portable document format) created by Adobe is often used to exchange electronic documents, as it authentically preserves the look and feel of the original document, does not require the user to have a copy of the software in which the document was originally created, and provides a range of tools to facilitate both effective on-screen reading and printing. Unless you have the Acrobat Reader software, which is freely available from Adobe, installed on your computer as a plug-in to your browser, you are unable to view PDF files. Worse still, when you try to view a PDF file, you will receive an error message indicating that you cannot view the document because the viewer software has not been installed on your computer. Consider your partners and lawyers receiving such a message on their computer screen, which then requires them to visit Adobe's Web site, select the appropriate version and location of the software, and then have the courage to install it on their computer.

The same situation applies to another typical plug-in called Flash, created by Macromedia. Flash is an application that supports the sophisticated animations often used in computer-based training, simulations and product demonstrations, and navigation structures on more sophisticated Web sites. If you have not installed the Flash plug-in, lawyers will not be able to properly use these sites and content, and they will become frustrated when they have successfully found the content they want to use, but cannot because their computer has not been set up to use it.

Must-Haves: Core Legal Knowledge Tools to Compete

The next category of impersonal knowledge strategy is a collection of legal knowledge tools that are necessary to compete cost-effectively with other firms in the market. If you were starting a new firm from scratch, these are the elements that you would have no choice but to create in order to attract and retain clients. The strategic objective in relation to these tools is to identify the items that are needed, carefully scope what is required, and then create and maintain those tools as cost-effectively as possible at an appropriate level of quality.

The principal danger in relation to this class of tools is a natural temptation to consider that the class of what is required is very wide—some firms have spent a large amount of time and effort essentially becoming legal publishers to an extent significantly beyond what was necessary to service their clients or have a profitable practice. Those involved in the initiative need to understand that the class of what is possible to create is very broad, and that the task is to identify within the class of what is possible the subset of what is *necessary.* Only the necessary should be created and maintained.

It follows that you need to develop and clearly articulate throughout the firm the criteria that determine what clauses and documents will be developed and maintained as precedents, and what clauses will not have organizational blueprints. Further, once the priorities have been developed, there needs to be transparent and frequent reporting of progress, management of expectations in relation to availability, and firmwide acceptance of the responsibility of all to continually provide constructive feedback.

The reality, and perception, of rigorous quality in the precedents will be critical to the success of these core knowledge initiatives. If the clauses, documents, and other knowledge objects are not regarded as of high quality throughout the firm, they will not be used, and the investment will be wasted. It is therefore critical that those involved in creating the clauses and documents are the best lawyers, highly regarded throughout the firm, and that the best partners are part of the articulated review and authorization processes. If low-utilization lawyers who are not highly regarded are diverted into knowledge management activities and asked to create key clauses and documents for the firm, their work will never be regarded as of sufficient quality to be embraced by all of the firm's lawyers.

The ways in which priorities are identified, quality ensured, signoffs obtained, and quality maintenance assured are equally as important as the words used in the clauses and documents. You need to establish rigorous articulated processes and focus on legal excellence.

When considering process, you also need to determine a methodology to harvest the examples of documents that are daily provided to your lawyers by the lawyers from other firms. One must presume that in at least 40 percent of cases the firm is responding to documents that have been drafted by other law firms. These documents are also a source of intellectual capital that can

contribute to the program that is developing and maintaining the core clauses and documents for your firm. Your methodology needs to deal with the process that is to be followed where these documents are obtained electronically as attachments to e-mail, or where the documents are received physically or via fax. Electronic versions should be added to the document management system with appropriate notations in the document profile to facilitate identification and review by the lawyers involved in the knowledge program. These documents provide you with the ability to benchmark your efforts against the legal work product being generated by your competitors, and are a source of knowledge that is ignored in most last firms.

Before discussing examples of common initiatives in this class of knowledge tool, it is important to understand a general proposition of measurement that must be incorporated into the creation and delivery mechanisms for all of the items that are discussed below.

First, *measurement during the creation phase.* Each knowledge object that has been identified as a priority needs to be managed effectively, which includes scoping the amount of time and effort that will be invested in the creation and maintenance of the object. For example, at the level of each clause or document, you should have an estimate that is managed against representing the opportunity cost of the lawyer time that you are investing. Administratively, this means that a nonbillable matter needs to be created for each knowledge object, and regular reporting and reforecasting needs to be performed in relation to costs to date, estimated costs to complete, and tracking to targeted release date. You should separately identify time spent in the original drafting processes from maintenance processes in order to accurately forecast the level of future investment that has been committed in order to maintain the quality of the knowledge stock that has been created. To capture the information, and to obtain meaningful management reports, will require discussion with your finance group and discipline with the lawyers involved in the knowledge program to ensure that accurate information is recorded.

Second, *measurement during the usage phase.* Almost universally, these knowledge tools will be accessed using some technology element—a button will be pressed somewhere on a keyboard to access the tool or information that has been provided. It is crucial that you design into the technology tool a step where an appropriate recording of activity is undertaken to facilitate later management review. For example, where standard clauses are provided for use by lawyers, you need to be able to record the data to answer the questions of whether the clauses are being used, which are used and which are not used, who is using them, and so on. If you do not have the data to be able to measure usage, there is simply no way to determine value and to tailor your investment effectively. The information can be recorded without user involvement and without degrading user experience, and it can provide a richness that can support a properly managed program. Of course, this data should not be collected and not reviewed. The usage data should be regularly reviewed and reflected back to the partners and lawyers, and appropriate actions should be

taken. Further, based on usage data, you should actively canvass people who have used particular elements of the tools for their professional judgment on whether the content or delivery mechanism can be improved in quality or suitability for the types of work they are doing for their clients.

Third, *measurement during an annual review phase.* Each year you should survey all of your lawyers on a range of issues in relation to the core knowledge collection. Issues for consideration would include:

- Their assessment of the currency of the elements of your core knowledge collection
- Their assessment of the comparative quality and scope of your core knowledge collection with that held and used by other firms with which they interact in the market (for example, has the market moved on from the types of documents that you have created and maintain?)
- Their assessment of the continuing validity of the priority assessments under which the program is currently working
- Their identification of the extent to which there are additional new clauses or documents that need to be created that now meet the firm's criteria for investment, and whether there are components of the firm's current stock that are no longer required

Finally, while measuring activity is very important, you also need to measure what has *not been provided* that is being regularly sought. For example, you provide a range of clauses to your partners and lawyer for use in drafting. You have deployed the clauses with a methodology that records who has used what clause when—but what you do not know is what the lawyers looked for, *but could not find.* In other words, you need to work out how at the point of delivery you can elicit information from your partners and lawyers about what they looked for but could not find. This information then provides an accurate source of data about the demand level for new or different elements to be added to the core tools that are provided to your lawyers.

The elements of the must-have core knowledge tools to compete are:

- A common clause and definitions library
- Templates or precedents for common commercial and litigation documents
- External legal and commercial materials, including a library database to manage those materials

Each of these are considered in turn below.

Common Clause and Definitions Library

The first category of must-have knowledge tool is a library of common clauses and definitions used in drafting documents and agreements. A series of clauses are commonly used in the documents created at the firm, generally mechani-

cal or logistical provisions. For example, definitions for common commercial terms are customarily set out in the Interpretation or Definitions clauses of agreements. Further, there is a range of common clauses including:

- Notice provisions
- Termination
- Severability
- Governing law
- Entire agreement
- Confidentiality and publicity
- Warranties
- Tax implications
- Execution clauses

For each clause or definition, your firm should create a knowledge collection with the following elements:

- *Legal research* in relation to the particular issue and the views that you have taken on the state of the law that is reflected in the way you have drafted the particular clause.
- *Notes on use* for the lawyers using the clause. These notes need to outline any important options or other considerations that the lawyer needs to consider when using the clause. It is also opportune to comment here on the firm's views on issues to be careful of when reviewing another firm's alternative of the clauses. In other words, when your firm is reviewing a document provided by another firm, what are the things to be aware of in relation to risks to your clients, depending on the way the clause has been drafted by the other firm?
- *Text of the clause* should be provided, together with any options clearly marked. The clause should be provided in a way that can easily be incorporated into a document that the lawyer is drafting using the word processing system. You should both provide an automated way to select and include a clause within a word processing document and also include the text of the clause in a document that may be accessed together with the other information discussed above. The version of the text in the document should be created consistently with the typical numbering scheme and styles used in your documents, so that if the lawyer cuts and pastes the text from the document to a document that is being drafted there is not a needless wasteful process of reformatting required.

Common Commercial and Litigation Documents

The second category of must-have knowledge tool is a library of common commercial and litigation documents. A series of documents is commonly used in providing services to clients, including:

- Sale of business agreements
- Powers of attorney
- Loan and financing agreements
- Mortgages
- Share sale agreements
- Incorporation documents

For each document your firm should create a form or precedent with the following elements:

- *Legal research* in relation to the particular document or transaction, and the views that you have taken on the state of the law that is reflected in the way you have drafted the particular document.
- *Notes on use* for the lawyers using the document. These notes need to outline any important options or other considerations that the lawyer needs to consider when using the document. Like the information provided in relation to clauses, you should also comment here on the firm's views on issues to be careful of when reviewing another firm's alternative document. In other words, when your firm is reviewing a document provided by another firm, what are the risks to your clients depending upon the way the document has been drafted by the other firm?
- *Text of the document* should be provided, together with any options clearly marked.

External Legal and Commercial Materials, Including Library Database

The third category of must-have knowledge tool is access to appropriate legal and commercial reference materials. These materials have been a staple in law firm offices for many, many years, although they have been complicated somewhat in their purchasing, access, and usage with the increasing amount of information available electronically. In most firms, the amount spent on legal and commercial materials has increased significantly, driven by an internal demand for broader and often international materials, and by a need to often deliver print and electronic versions of the same material. Law firms need to carefully review the appropriateness of the electronic materials purchased throughout the firm, and in particular should consider whether firmwide access to the materials is necessary. This is important because publishers often charge for materials based on the number of lawyers in the firm, since any of the firm's lawyers can have access to the material from the desktop. While this sounds good in theory, and certainly is positive for the revenues of the publishers, firms need to consider whether it is more appropriate to have limited access to some materials at stand-alone computers in the library—it will certainly be more cost-effective.

The fact that resources may only be available if a lawyer visits the library should not be taken as a prohibiting reason against more limited access.

Should-Haves: Serve Clients and Increase PPEP

The third category of impersonal or digital knowledge strategy is the should-haves—a collection of initiatives of modest cost that drive efficiencies and productivity of lawyer time in nonbillable tasks. These initiatives would include the following:

- Important registers of information about the firm, its clients, and its competitors
- Physical notice boards carrying legal and nonlegal information
- Arrangements for circulation copies
- Daily update e-mails and communication strategy in the firm
- A range of initiatives to drive productivity in nonbillable tasks
- A matter library including profitability
- A publication distribution database
- A project methodology for internal nonbillable projects

Important Registers of Information about the Firm, Its Clients, and Its Competitors

A range of relatively inexpensive registers that should be established and maintained within any firm. These registers provide a centralized, authorized source for trusted information on a selection of key issues, the management of which is important to the conduct of the firm's business. The technology dimension of these registers can be as simple as a spreadsheet, a word processing document, a database, or a Web page. The particular methodology of publication is unimportant—what is vital is the currency, completeness, and validity of the information stored. Several of these registers are discussed below.

Registers of Client Tender Commitments

In responding to tenders, firms regularly make commitments to the potential client in a range of areas. These commitments can be in relation to service levels, the identity of team leadership and team members, conflicts, the application of technology, matter management, matter reporting, library access, training programs, and of course, cost elements like fee arrangements, hourly rates, and disbursement charges. These matters are usually the result of careful drafting and consideration by the people drafting the tender response—but when the tender is won, unless this information is shared with and available

to the people who will be providing the services, the risk is that the client will rightly become dissatisfied where the reality of service delivery differs from the promises the firm made in its pitch documents.

It follows that all firms should have a register of commitments made to clients in tender documents. In addition to recording the commitment made, the register should also include a regular assessment of progress in delivering the commitment made and ideally include feedback from the client on the level of delivery on the promises made. Such a register and publishing of the information enables people on the client-serving team to know the rules of engagement for providing services, and also enables the support functions of the firm to know what commitments have been made in their name and in relation to which they must ensure delivery.

It would also be useful, although not required, to include in the register a debrief of clients after the tender in relation to the importance to them of the various promises made in the tender to better inform the construction of tenders and proposals for other clients. You may also be able to identify elements included in your tender as additional value-adds that the client does not require you to perform.

The register of client commitments thus becomes an important source of information to guide the provision of services to existing clients, and also becomes an important source of reference in the management of key client relationships and in pitching for new work. Client relationship partners for key client relationships can review the information in the tender commitment register to determine the additional or different services that are now being offered to new clients. This is important to ensure that long-standing and very valuable key client relationships are not taken for granted and provided a poorer level of service than a new client. A long-standing client can become very dissatisfied to discover that a higher level of service, or more innovative service, is being delivered to newer, smaller clients of the firm and has never been offered to them!

Register of Lawyer and Competitor Charge-Out Rates

The second key register to be created and maintained as a should-have project is a register of lawyer and competitor charge-out rates. This information is used primarily for pitching for new work, and for review when considering increases or changes in hourly-rate structures.

The firm's practice management system should have the flexibility to enable different charge-out rates for the same individual depending upon the client group being served. In this way, an individual lawyer does not have to adjust billing information when preparing and finalizing bills for clients for whom nonstandard hourly rate agreements have been made.

However, when preparing an estimate for new work, or when preparing rates for inclusion in a tender, knowing the standard rates for the lawyers you are offering to use as part of the team, and knowing the market intelligence

about the standard and discount rate practices of your competitors, is required information. A tremendous amount of competitor information in relation to rates and tender practices of other firms is dispersed within the brains of your partners and lawyers—and in the hands and the checks of your best clients. A discussion with one or two of your most aligned, most disposed major clients will yield a great deal of information about the hourly rates and value-added offerings of your competitors. Obtaining this information and recording it in a centralized register is not a particularly expensive process, but it will add significant value to your tendering and client-serving practices throughout the firm, and will make for more informed discussions and decisions in relation to appropriate rate setting.

Register of Client Feedback and What Clients Want

The next should-have register is a register of client feedback—the good, the bad, and the ugly. Establishing, maintaining, and internally revering a register for this information helps to establish a culture of client service and provides firsthand accounts and examples of what clients value and what can damage client relationships. Having favorable client feedback about their client service should be a component of each lawyer's annual performance assessment. When this is a part of the performance assessment process, lawyers are more likely to seek feedback from the clients, and the mere conduct of this dialogue between lawyer and client will lead to a deeper understanding of the needs of the client, and hopefully a deeper client relationship less susceptible to going to tender or considering using other service providers.

Where the firm has a process of satisfaction surveys and feedback mechanisms with their clients, the results of those processes and the responses from the clients should also be incorporated into the register. A regular synthesis process should be conducted and a summary written of what clients want— what is important to clients in their relationship with the firm. This part of the register should be an amalgam of the learnings from Maister and others on client service, augmented with the firsthand accounts and views of the firm's clients. The register would then be used in training programs and regularly circulated throughout the firm.

Like the other registers, the particular form of technology used to achieve the objective is not particularly important; however, the contents of this register is something to which senior partners and senior management should have regular regard, and should regularly refer to in their leadership communications.

Register of Nonbillable Projects and Investments

The next register is an administrative register, principally for the use of partners, senior management, and the leadership of the firm's support functions.

Within any firm there are a range of nonbillable projects and investments being conducted, many of which involve lawyer time. This can include knowledge projects, tenders, technology projects, performance improvement projects, recruiting processes, and projects to improve support functions. In most firms, these nonbillable projects are not tracked or managed in any way, with a consequent overrun in terms of cost, and either delayed delivery or no delivery at all. Further, many of these projects are created without a formal or informal identification of the business case for the project, or how the project fits into the strategy of the firm.

This register would provide a centralized way to track, measure, and manage the diverse range of nonbillable projects and investments that occur within the firm.

Notice Boards

When considering your impersonal and digital knowledge strategy, it is easy to forget that there are impersonal forms of knowledge strategy other than electronic. For example, the appropriately placed and appropriately maintained humble notice board is a highly effective tool to build and share knowledge. This technology-induced blindness led many initiatives to replace physical notice boards with electronic bulletin boards, on the basis of cheaper cost, easier archiving, less visual office clutter, and a belief that a "paperless office" was the future. The reality of those initiatives was that the electronic bulletin boards were rarely visited, and achieved less knowledge transfer than the physical alternative.

Your interpersonal and digital knowledge strategy should include physical components like notice boards, books, physical mail, and other objects as appropriate to maximize the movement of valuable knowledge. These initiatives also need to be accompanied by policy development in relation to who is allowed to place material on the notice boards, and customs in relation to removal for copying. You might consider having a shelf under the notice board for copies of materials that people may take away with them, while the original is placed on the notice board.

Correspondence Copies

In the days when *cc* actually meant carbon copy, and we duly inserted sheets of carbon paper between other pieces of paper when using typewriters or daisy-wheel impact printers, knowledge sharing often occurred more naturally than today as a result of being embedded in the practice of daily life.

At Price Waterhouse in 1985, for example, the standard for preparation of documents was the assembly of a multisheet collection to be fed into the printer. Separated by individual sheets of carbon paper were the letterhead, a file copy, a circulation copy, and a reference copy. The various copies were

lightweight paper, of different colors, and had blank tables on them at the top right-hand corner for use. When a document was signed, the file copy would be initialed, the table at the top of the circulation copy would be marked with the initials of the people within the firm to whom it should be circulated for information, and a decision would be made as to whether the reference copy should be sent to the knowledge management team. Where circulation and reference were not appropriate, those copies were discarded in the waste bin.

With the advent of laser printers, those habits disappeared overnight— but not to be replaced with better knowledge-sharing practices. There is no longer the standard circulation copy; there is no longer the standard refer- ence copy. An original is laser printed, signed, photocopied for the file or other client distribution as appropriate, and there is never a thought given to circulation for notice, or submission for knowledge management purposes. However, it is not the technology that dictates this outcome. In most firms, the preparation of bills for clients occurs in multiprescribed copies—and the process is adhered to. You should consider in your impersonal knowledge strategy how you want to approach the circulation of material to others for whom it is relevant and create the behaviors and processes to support it. Of course, this will result in a degree of waste where copies are created and not used, however, unless the creation of the material is part of the standard way that documents are prepared—then the participation rate in knowledge sharing and in submission to knowledge management initiatives will remain small.

Daily E-Mails

Another should-have element of your impersonal knowledge strategy is a strategy for daily e-mails throughout the firm dealing with legal and firm information. The library is ideally placed to create a succinct e-mail, no more than two printed pages, that summarizes the key information occurring in the press and in legal materials that is relevant for lawyers at the firm. This should also carry information about the firm's key clients and targets and the firm's competitors. The e-mail should be well written, each item no more than two or three lines with a link to other resources for further details. The start of the item should be a boldface headline created by the library, and the item description should indicate whether the story is a short item, a detailed piece, mandatory reading, or for notice only. These should then be warehoused for searching.

You also need to consider a publication strategy for firm administrative communications. These should not be carried in the daily legal news e-mail and should be collected and published regularly rather than allowing haphaz- ard e-mail from all support functions at the firm. These should also then be warehoused for subsequent review.

Should-Haves: Driving Lawyer Productivity in Nonbillable Tasks

The largest category of should-have initiatives you need to consider in your impersonal knowledge strategy is a collection of initiatives that enable lawyers to do nonbillable tasks more effectively (i.e., faster and better). There is a wide range of these, and some ideas are provided below to start your thinking.

- *Resumes*: You should have consistent format quality resumes for each of your lawyers in an easily accessed and integrated place. This enables faster and better tender preparation.
- *Tender clauses*: You should have a standard suite of tender clauses, answers to the questions typically asked in tenders, and key statistics about the firm to be included in tender responses. This enables faster and better tender preparation.
- *Library of tenders, stats, and posttender debrief reports*: You should have these to learn from your hard-won experience and better focus your efforts.
- *Matter library (including profitability)*: You should have this to enable fast recourse to document sets, research, and financial information when tendering for, and undertaking, legal work.
- *Publication distribution database*: You should have an accurate and considered database that generates the addressing of your publication distribution and holiday card distribution. In some firms, partners and lawyers spend an extraordinary amount of time each year to assemble their card list and dispatch the cards.
- *Project methodology for internal nonbillable projects*: You should have a robust methodology that is consistently followed for all nonbillable projects that includes after-action reviews and archiving of research materials, papers, reports, and implementation milestones. This will reduce the amount of time lawyers spend in these projects, maximizing the impact of their time and the chances of success of the project.

Investment Decisions: Investment Projects for Quality, Client Service, or Lawyer Satisfaction

The final category of projects you need to consider in your impersonal and digital strategy, and the last group of suggestions I make in this book, is investment projects undertaken to improve quality, client service, or lawyer satisfaction. Strangely, these are the projects that many law firm knowledge management initiatives start with and launch with limited assessments of PPEP impact. These projects often use interesting and new technologies that have the lure of being a comprehensive answer to all of the firm's knowledge management problems—without requiring any changes to the firm's behaviors and processes. These projects occur in part because of the KM = IT view that

has diminished the chances of success of law firm knowledge management. Your knowledge strategy needs to address the personal and interpersonal dimensions of knowledge strategy before attempting knowledge investments.

My counsel is that these investment projects should *never* be commenced without a business case that demonstrates its contribution to PPEP and its relationship with the values of the firm. Some projects will be investments in the values and service proposition of the firm, rather than investments to yield PPEP; however, it is critical that this character is understood at the outset by all who are involved in the initiative and by the partners that are providing the funding.

A separate book could be written on design and implementation issues for these projects—they are large scale, complicated, and difficult in their resourcing, creation, and maintenance. There are complex people, process, technology, and communications elements. However, for you to commence your analysis, several of the common major projects to consider are listed below:

- A database/digest of prior transactional and advice work product and training materials (discussed in John's story in chapter 8)
- Client-specific precedents and noncore clauses and documents (i.e., beyond the must-haves discussed earlier)
- A register of expertise (an expertise database will yield better client service, but will not of itself produce a PPEP increase)
- Transaction process guides, stories, and case studies (these will yield PPEP only if they improve leverage and decrease write-offs; they will increase quality if done well)
- Articles, publications, and seminar papers (these will yield better lawyers, and better leverage of seminar materials obtained by lawyers when conferences are attended)
- Customer relationship management/contacts database (will yield PPEP where client relationships are maintained, preventing client churn and leakage; however, the system alone will not achieve this without significant lawyer behaviors)

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Appendix 1: Selected Web Sites That I Use

The following does not attempt to be an exhaustive list of all of the knowledge management resources on the Internet. It is a select list of the resources that I regularly visit to keep up-to-date.

You should visit and review each of these sites and determine whether they are places that you should regularly visit to maintain and develop your tacit knowledge about KM, or whether they are reference sites to be consulted when you are looking for assistance on a particular issue. I have kept the list deliberately short to encourage you to visit every site and form your own view. Building knowledge takes personal effort.

Knowledge Management

American Productivity and Quality Center
    apqc.org
BRINT, knowledge management portal on the Business Researchers Interests portal
    km.brint.com
Etienne Wenger's Web site, focused on communities of practice
    ewenger.com
Integral Performance, home of Verna Allee
    vernaallee.com
KM World magazine and portal
    kmworld.com

Knowledge Management Consortium International
kmci.org
Knowledge Management magazine (publication ceased in 2001, but the archive is still available)
kmmag.com
Knowledge Management Research Center of *CIO* Magazine
cio.com/research/knowledge
Knowledge Management Review (subscription magazine)
km-review.com
Knowledge-Nurture.com, Buckman Laboratories' Web site for knowledge management
knowledge-nurture.com
Standards Australia KM portal
knowledge.standards.com.au
Steve Denning's Web site, focused on storytelling
stevedenning.com
Sveiby Knowledge Associates, home of Karl Eric Sveiby
sveiby.com.au
TFPL
tfpl.com

Legal Knowledge Management and Legal Technology

Delia Venables's Internet newsletter
venables.co.uk/newslett.htm
Excited Utterances, an outstanding blog by Joy London
excitedutterances.blogspot.com
Law.com Automated Lawyer
law.com/professionals/automated_lawyer
Law Librarians Research Exchange
llrx.com
LegalIT magazine
legalit.net
Legal Technology Insider, a newsletter by Charles Christian
legaltechnology.org

Knowledge Management, Leadership, and Professional Services

Business 2.0
business2.com
Darwin magazine
darwinmag.com

David Maister
        davidmaister.com
Fast Company magazine
        fastcompany.com
McKinsey Quarterly
        mckinseyquarterly.com
Tom Peters and Company
        tompeters.com

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Appendix 2: Software and Utilities to Know

The following does not attempt to be an exhaustive list of all of the knowledge management related software available. It is a select list of the resources that I believe you should be aware of if you are considering, or responsible for, a knowledge strategy or initiative.

You should visit the Web sites for each of these products and review the product literature and features. I have divided the list into utilities, which are smaller, niche products, and major software, which outlines the major players in the significant software categories for law firms. Regardless of the particular products you currently use, reviewing the features and ideas from other products will always provide ideas that can make your efforts for your lawyers better. Curiously, even reading the information for products you already own and use is guaranteed to expand your understanding.

I encourage you to visit *every* Web site I have listed below and form your own view.

Utilities to Know: General Utilities

Auscomp Navigator
    Web-based navigation system
        auscomp.com
Google toolbar
    Plug-in to Internet Explorer to significantly enhance Web search experience
        toolbar.google.com

Intralaunch
    Launch programs and other computer operations from intranet links
        particle.net
Transit
    Conversion of documents into HTML
        avantstar.com/solutions/transit/transit_central.aspx
Viewlets
    Easy-to-create Web-based simulation and demonstration of software
        qarbon.com

Document Assembly/Document Utilities

Acrobat
    Outstanding document packaging, distribution, and viewing tool
        adobe.com
Business Integrity
    Document assembly
        business-integrity.com
Dealproof
    Proofing tool to check internal consistency and cross-references within
    documents
        dealproof.com
Deltaview
    Best-of-breed markup and comparison tool for word processing docu-
    ments
        workshare.net
Ghostfill
    Document assembly
        ghostfill.com
HotDocs and HotDocs Server
    Document assembly
        capsoft.com
Speedlegal
    Document assembly
        speedlegal.com

Search and Personal Knowledge Management Utilities

dtSearch
    Search engine
        dtsearch.com

Enfish
>   Personal knowledge manager integrating information from a diverse
>   range of desktop, network, and Internet resources
>   >   enfish.com

Isys
>   Excellent search engine with hit markup and hit-to-hit navigation
>   >   isys.com.au

MindMan
>   Outstanding mind-mapping software
>   >   mindman.com

Retriever
>   Personal information manager with vastly superior search plug-in for
>   Outlook.
>   >   80-20.com

Major Software: CRM

Interaction
>   Leading customer relationship management software
>   >   interaction.com

Major Software: Document Management

DME (document management extensions)
>   >   80-20.com

Documentum—Xerox
>   >   documentum.com

Hummingbird—PC Docs
>   >   hummingbird.com

Interwoven
>   >   interwoven.com

Lawport
>   >   svtechnology.com

Major Software: Knowledge Platforms/Portals

Autonomy
>   >   autonomy.com

Hummingbird
>   >   hummingbird.com

Intraspect
      intraspect.com
Lotus Notes
      lotus.com
Plumtree
      plumtree.com

Appendix 3: Glossary of Terms
You Should Know

Acrobat Reader. The Acrobat Reader is a free piece of software from Adobe that installs itself into your browser (called a plug-in). Once installed, it enables you to read PDF files, which preserve the format and layout of the original print document. The Acrobat Reader is available from the Adobe Web site and is upgraded from time to time. The Acrobat Reader is a mandatory plug-in for lawyers and should be automatically installed for all staff by the firm's technology group.

After-action review. An after-action review (AAR) is an assessment conducted after a project or major activity that allows employees and leaders to pinpoint and analyze what happened and why. It is a professional discussion of an event that enables employees to understand why things happened during the progression of the process and to learn from that experience. After-action reviews are standard procedure in several arms of the U.S. armed forces and are increasingly common in knowledge management initiatives.

Average realized rate. Average realized rate is one of the four drivers that multiply together to produce Profit per Equity Partner (PPEP), the primary measure of law firm profitability. Average realized rate is the average hourly rate achieved for a group of fee earners during a year, measured in dollars. It is calculated by dividing total billings by the total hours worked by all fee earners during the year.

Blue Flag. Blue Flag is a family of subscription-based online and CD-ROM products produced by the global firm Linklaters. A range of modules have been produced, including Regulatory, Derivatives, ESP, Funds, Pensions,

Shareholding Disclosure, FSMA Litigation, NetMark, and World Bank. Further information is available at blueflag.com.

Brief bank. A brief bank is a database of documents of advice prepared by the firm. Brief banks are also called infobanks, opinions databases, or pleadings banks.

Browser. A browser is software that you use to access Internet or intranet resources. The most popular browser is Internet Explorer from Microsoft. There are additional "plug-in" pieces of software created by other companies to view special items, like multimedia animations (the plug-in is called Flash) and formatted documents (the plug-in is called Acrobat Reader from Adobe, used to view PDF files).

CIO. CIO is the acronym for chief information officer, the employee typically responsible for technology architecture, hardware, and security, and the deployment, support, and maintenance of software. *CIO* is also the name of an excellent technology and technology strategy magazine—see CIO.com—that has a good knowledge management research center.

CKO. CKO is the acronym for chief knowledge officer, the employee typically responsible for knowledge management strategy and implementation.

Clause library. A clause library is a collection of common clauses used by lawyers in the drafting of documents. Firms usually have distinctive and proprietary clause libraries. A clause library can be physical (i.e., a printed document) or electronic to permit quick incorporation of clauses into word processed documents. It is recommended that clause libraries also have notes on proper use of the clauses, and that the underpinning research and policy for the drafting of the clauses be published and available.

Community of practice. A community of practice is a group with a common technical or professional interest formed for the discussion and building of collective knowledge rather than the delivery of a client or organizational project. For example, a practice group meeting is a community of practice. There is a body of learning about how effective communities of practice are formed, managed, guided, and terminated.

CRM. CRM is the acronym for customer relationship management, and is a collective noun for a genre of software designed to attract and retain customers, prospects, and business partners. CRM includes contact management, sales force automation, opportunity management, relationship management, marketing automation, company Web sites, telesales, and telemarketing systems. For law firms, the leading CRM software is InterAction from Interface Solutions, which manages client contact database information, physical and electronic mailing and marketing programs, and internal contact and expertise information.

Current awareness. Current awareness is notification of new information, including legislative, case, and practice information, to help lawyers keep up to date. Current awareness can also be used to describe notifications of new library materials (physical or electronic). Lawyers need a current

awareness strategy by which they remain current and up-to-date about the knowledge and practices of their discipline.

Dealroom. A dealroom is a secure, collaborative Internet site created to manage the documents and other electronic information relating to a deal or transaction. Dealrooms are available from third-party vendors, like Intralinks (see intralinks.com) and e-Room (eroom.com). Firms are using these vendors, creating their own platforms, or mixing both strategies. Major international law firms tend to create and brand their own dealroom and client extranet platforms.

Digital dashboard. The term of "digital dashboard" was coined by Microsoft. A digital dashboard is a Web page that draws information from many sources to present a user-customizable view of important information. Because the dashboard is a Web page, it can also be easily accessed within Outlook in the same way as "Outlook Today" is displayed. Many software vendors are creating components that can be incorporated into organizational digital dashboards to display information from their systems.

Document assembly. Document assembly is a process whereby electronic documents are created by a user answering a series of questions on screen. The questions, and the document implications, can be very complex and yet presented to the user in a series of friendly question boxes. The document assembly software is an accessory to word processing software and licenses must be purchased for every computer that runs the automated documents. For law firms, the leading document assembly software is HotDocs from Capsoft (capsoft.com), or GhostFill (ghostfill.com). See also *Online document assembly*.

Document management system. A document management system (sometimes called a DMS) is software to catalog and control the creation, naming, storage, access, and security of electronic documents. For law firms, typical electronic documents include Word documents (created internally or externally), PowerPoint presentations, spreadsheets, PDF files, scanned images, and precedents. The most popular document management systems for law firms are Interwoven (interwoven.com, formerly imanage.com), PC Docs from Hummingbird (hummingbird.com), and Documentum from Xerox (documentum.com). Law firms have for many years used document management systems to create unique document numbers that are displayed in footers on documents for easy access of documents by document number. When sending documents to clients, you should consider copying the documents from your document management system using names that will be meaningful for your client (e.g., "Part A Statement") rather than the default document number allocated by the document management system when it exports documents (e.g., "003213.doc").

Document profile. A document profile is information that is completed about a document, typically in a document management system. The scope of the information that is recorded is a strategic decision for the law firm,

and would include at a minimum information including matter number, author, and description. The layout of the document profile screens (and the other screens, including search) are configurable by the law firm. These document profiles are stored in a separate database for ease of searching, while the documents are saved on hard disks on servers. Document profile is different from Document Properties.

Document Properties. Document Properties is a place within Microsoft Office documents where metadata about the document can be stored (e.g., author, subject, company, etc.). A range of properties can be set in the Word Document Properties, and additional information can be customized. When a Word document is open on screen, the document properties can be viewed by selecting File : Properties and then clicking on the Summary tab. Law firms using document management systems typically do not intentionally use the Document Properties features of Word, PowerPoint, and Excel. However, firms need to be careful when providing documents to clients as information in the Document Properties may be populated from the document management system and provide information to the client (such as the name of another client from whom the document was used as a template). It is recommended that firms ensure that when documents are exported from the document management system (for attaching to e-mails) that these fields are rendered blank.

Dynamic Web page. A dynamic Web page is a page on the Internet that displays on your screen as a result of a program running to construct the page, rather than displaying a document that already existed. Typically, dynamic Web pages display information about the user, or from databases accessed by the program that runs when the Web page loads. For example, all of the pages at Amazon.com are dynamic Web pages; they draw information from a database to display on your screen. Internet, intranet, and extranet sites that are created as dynamic Web pages are much easier to maintain, because content changes are made to the accessed database, rather than individual changes to many, many static pages.

EIP. EIP is the acronym for enterprise information portal, a Web page that aggregates information and functionality from a range of disparate systems and presents them to the user in a cohesive framework capable of personalization. The major EIPs used by law firms include offerings from Plumtree (plumtree.com), Opentext LiveLink (opentext.com), and Hummingbird (hummingbird.com).

E-learning. Also called "online learning," e-learning refers to instructional material and courses delivered electronically, either on CD-ROM, or using the Internet/intranet. Law firms can purchase legal and nonlegal e-learning materials from third-party vendors, or can purchase software to create e-learning courses (see macromedia.com, webct.com, click2learn.com) and to host and record details of e-learning course completions. Clients are using e-learning for training in relation to legal compliance issues (for further information, see lrn.com)

ERP. ERP is the acronym for enterprise resource planning, and is a collective noun for a genre of software designed to manage the whole of a business, to integrate sales, manufacturing, human resources, logistics, accounting, and other enterprise functions. One of the key advantages espoused by ERP vendors is productivity benefits from enabling all business functions to share a common database and business analysis tools. Common ERP vendors are SAP, from Germany, and PeopleSoft, from the United States. Many are questioning whether value has been delivered from implementations of these notoriously complex systems. For law firms, PeopleSoft may be used for managing people information, and Linklaters has announced the selection of SAP as its global practice management system.

Expertise database. Also called "yellow pages." An expertise database is a searchable database of legal and nonlegal expertise of lawyers and support staff. An efficient expertise database will identify the level of expertise attained (to differentiate practice leaders from those who may be assembled on a tender team), and also use the institutional taxonomies for matter and legal issues. An alternative to a structured and maintained expertise database is e-mail mining software like AskMe from AskMe Corporation; see askme.com.

Explicit knowledge. Explicit knowledge is knowledge that has been made explicit, or physical, in some form independent of the person or persons from whom the knowledge is sourced. Explicit knowledge includes documents, policies, and material stored electronically in databases. Explicit knowledge is distinguished from tacit knowledge, which is knowledge within a person's brain. Much of the early work in knowledge management was devoted to making explicit knowledge from the tacit knowledge of knowledge workers.

Flash. Flash is a software tool to create sophisticated animations for use on the Internet, and in presentations. In order to view the animation, users must have the Flash plug-in, which is free, installed in their browsers. Flash is often used for navigation, for demonstrations and promotional material, and for introductions to Web sites. Lengthier animations often provide a "skip intro" link that will terminate the animation.

HRIS. HRIS is an acronym for human resources information system, a system used to acquire, store, manipulate, analyze, retrieve, and distribute information regarding an organization's human resources. A typical HRIS is PeopleSoft.

HTML. HTML is an acronym for Hypertext Markup Language, which is the principal format for documents on the Internet. HTML documents (which can be recognized by their .htm file extension) are text files that instruct your browser how to display text and objects on an Internet page. HTML provides much, much less sophistication on document control and layout than a word document. Information to be displayed on the Internet as Web pages needs to be created and saved in this special format, which permits hyperlinks, graphics, and fast transmission. Software

is available that converts Word and other common document formats to HTML, including HTML Transit and Transit Central distributed by Avanstar (avanstar.com).

HTML Help. HTML Help is Microsoft's successor to WinHelp, which is the special file format Microsoft created to publish the electronic help information that accompanies its software products (accessible by pressing F1 on the keyboard). HTML Help permits easy navigation with a table of contents and search facilities, and it has the feeling of a book reference. The advantage of HTML Help is that it can be deployed via the Internet (or intranet) rather than copied to computers and around networks, as when WinHelp files are deployed. Microsoft's HTML help is not as functional as WinHelp, and other vendors have created HTML-based help formats which are more functional: InterHelp from ForeHelp (forehelp.com) and WebHelp from RoboHelp (robohelp.com). Special software is needed to create HTML Help files. HTML Help or WinHelp files are highly successful electronic ways to package reference information, including style guides, clause libraries and research, and other knowledge content.

Hyperlink. A hyperlink is text (or a graphic) on a computer screen that, when pressed, takes an action, like going to another page, or popping up an additional screen of information. Hyperlinks are very common in Web pages and are typically underlined. Hyperlinks can also be created in Word documents, PowerPoint presentations, spreadsheets, WinHelp and HTML Help files, and PDF files. Hyperlinks can link to location within the current document (such as a clause reference) or link to a specific location in a different document.

Infobank. A bank of information, usually electronic, and often a database repository. Several law firms use the term "infobank" to describe components of their knowledge management activities, including Lovells in England and Blake Dawson Waldron in Australia.

Intranet. An intranet is a collection of Web pages (HTML) and Web-delivered applications (dynamic Web pages) secure to an organization. For law firms, intranets typically contain legal and nonlegal information and are increasingly a converging point for the delivery of information throughout the firm. The challenges for law firms are efficient content creation in HTML, content quality, and coordination.

Java. Java is a programming language created by Sun Microsystems that runs in handheld devices and browsers and is independent of particular computers. This means that software writers can write in one language that can be used on many different sorts of computers. Much of the automation and many programs that appear on Web pages are written in Java, and are called "applets." For example, interest calculators can be written as a Java applet. When you click a hyperlink on a Web page for the calculator, the program for the calculator is sent to your computer, and then is run on your computer.

Knowledge management. There is no universally accepted definition of knowledge management, although a range of definitions is provided in chapter 2. My personal working definition is: Knowledge management is the processes and behaviors by which a group of people increase their personal and collective actionable knowledge to compete, increase performance, or reduce risk.

Kworld. Launched in 1999, Kworld is an initiative of KPMG. It is a global knowledge management system, an online messaging, collaboration, and knowledge-sharing platform. It was the first system of its kind built entirely from standard Microsoft components, including Microsoft Exchange, Site Server, and Microsoft Office, Outlook, and Internet Explorer. Kworld resulted from a decision of KPMG's international executive team that KPMG needed to create a single, dynamic, and universally accessible knowledge environment.

Learning organization. The term "learning organization" was coined by Peter Senge in his book *The Fifth Discipline.* He defined learning organizations as "organizations where people continually expand their capacity to create the results they truly desire, where new and expansive patterns of thinking are nurtured, where collective aspiration is set free, and where people are continually learning to learn together" (p. 3).

Leverage. Leverage is the term used to describe the way a partner builds a team of associates so that work can be delegated and the skills and experience of the partner leveraged to undertake more work and to be more profitable. Leverage is usually quantified, so that a leverage of 1:3 means that a partner has three lawyers working for her. Leverage is one of the four drivers, or variables, which multiply together to yield PPEP. The other drivers are average realized rate, utilization, and margin.

Lotus Notes. Notes is a software program created by Lotus (now part of IBM) in 1990 that created the software genre now known as "groupware." Groupware includes e-mail, diary, scheduling resources, and information distribution. Notes was a breakthrough e-mail platform, embraced strongly by early adopters (including accounting and consulting firms, insurance companies, pharmaceutical companies, and large law firms). Notes can easily create databases of documents that can be searched and replicated to other computers. For many years, Notes was the only full-featured groupware solution. With the sudden popularity of the Internet, and intranets in particular, new groupware solutions emerged. The ease of creation of document databases in Notes can lead to information overload. It is not uncommon for large accounting and law firms to have in excess of 2,000 different Notes databases containing knowledge content. For further information, see lotus.com.

Macro. Law firms normally encounter macros in the context of word processing programs. In this context, a macro is a script of commands linked to a collection of stored keystrokes that enables the user to perform routine

and complex tasks quickly. Macros are easy to create in Microsoft Word and can be used for document assembly tasks. However, significant document assembly exercises are easier to create, and cheaper to maintain, using a specialized document assembly product.

Margin. "Margin" is the term used to describe the percentage of a firm's revenue that it retains as profit. It is calculated by determining profit (revenue less expenses) and dividing that profit by total revenue. Margins are expressed as a percentage, for example, 38 percent. Margin is one of the four drivers, or variables, that multiply together to yield PPEP. The other drivers are leverage, utilization, and average realized rate.

Matter management system. A matter management system is a database used by clients to manage information about matters. Leading matter management systems include Chief Legal Officer from Corprasoft (corprasoft.com). A law firm's matter management system is normally referred to as a practice management system, or PMS.

Matter profitability. Matter profitability is an assessment of the profitability of an individual matter. In calculating matter profitability (as against the profit of the matter) an assessment is made of the PPEP that would be achieved if a partner's practice comprised solely matters of the type being analyzed. In this way, very large or small matters are reduced to a comparable PPEP value that can compare the profitability for the practice of those matters. For example, a very large matter undertaken with small leverage will yield a lower matter profitability than a more moderate matter conducted with a higher degree of leverage. Firms can create matter profitability calculators, which are customized to the overhead and remuneration structures of the firm.

Metadata. Metadata is information about information. For example, a document profile (information about a document) is metadata. The information about name, author, document type, and so on is information about the electronic document rather than the content. The metadata in a document profile in a document management system is stored separately from the document. However, metadata can also be stored within the document it is describing: for example, embedded metadata within Web pages that does not display on screen but is accessible to search engines, and the metadata in the Document Properties that can be saved with a Microsoft Word document.

One-firm firm. The "one-firm firm" is a concept coined by David Maister in 1995 as he analyzed outstanding professional services firms. The critical elements of the "one-firm firm" approach are management's emphasis on loyalty to the firm and group cooperation.

Online document assembly. Online document assembly is a process whereby documents are created following a user answering a series of questions on an Internet or intranet page. The questions, and the document implications, can be very complex and yet presented to the user in a series of friendly question boxes. When a user answers all of the questions, a

document is then created by special software on the Web server, and the document is then presented to the user, or e-mailed to a specified address. Leading online document assembly products will also provide a list of the questions and answers that were provided. For further information, see capsoft.com, ghostfill.com, and statutelegal.com. See also *document assembly*.

Online instruction. Online instruction is a process whereby a client initiates instructions to its law firm by answering a series of questions on a Web page. Typically, the online instruction Web page is created to make providing instructions efficient (enabling reuse of commonly used components such as addresses and parties). When all of the questions are answered, the information is then stored in a database at the law firm, and typically e-mail messages are sent and documents may be created for review by the lawyer. Unlike online document assembly, the client is not provided with a document at the end of answering all of the questions. Typically a client would receive a confirmation e-mail confirming all of the information had been received and that the relevant lawyer would soon contact them.

Online learning. See *e-learning*.

PDF. PDF is an acronym for portable document format, an electronic file format developed by Adobe Systems. PDF files enable the exact reproduction of highly styled documents, by contrast to the low-style capability of HTML pages. The advantage of PDF files is that they appear on screen, and in print, as they were intended. To view a file that has been created in PDF format, you need to have the free Adobe Acrobat Reader installed on your computer. To create PDF files (which is an easy "save as" process in Word), you need to have a license for the commercial product Adobe Acrobat. PDF files support internal and external hyperlinking, pop-ups, sophisticated index structures, and bookmarks. Using PDF files efficiently requires using the Acrobat Reader toolbar and menus, an important and easily learnable skill for lawyers. A great deal of legal and nonlegal information is published in PDF to retain document formatting.

Plug-in. A plug-in is a piece of software that increases the functionality of a browser. Plug-ins are usually freely distributed by their creators and are installed by downloading from the company's Web site. The most common plug-ins are Adobe Acrobat Reader and Macromedia Flash.

PMS. PMS is an acronym for practice management system, which is the time and billing system used by the law firm. "Practice management system" is the successor term to "case and matter management system" and includes time recording, billing, conflict checking, and, increasingly, marketing activities and integration with other firm databases and information.

Portal. See *EIP* (the acronym for enterprise information portal).

Powerpacks. "Powerpacks" is the name coined by Ernst & Young to refer to a Notes database collecting electronic documents relating to a particular area of expertise. Powerpacks are distilled information (such as regulations and standards, marketing information, resumes of company

experts, and news about hot topics) packaged into a set of online tutorial materials that could be accessed by any employee. The Powerpacks are edited to take less than 50 MB of storage space, so employees can download them onto their laptop computers.

PPEP. PPEP is the acronym for Profit per Equity Partner and is the predominant measure of law firm financial success. PPEP can be calculated in two ways: (1) by dividing the total profit for the firm by the number of equity partners; or (2) by multiplying together what David Maister refers to as the four drivers of leverage, average realized rate, utilization, and margin.

Precedent. A precedent is a document form or template created by the law firm for reuse. Precedents often embed significant operational and legal know-how into the document, including variables and commentary on use. Precedents are usually word processing documents stored in the document management system. It is recommended that firms enable lawyers to access precedents from customized toolbars and screens created using VBA. The creation and maintenance of precedents for law firms is a significant component of the investment of law firms in knowledge management.

SQL. SQL is an acronym for Structured Query Language, which is a standard interactive and programming language for getting information from and to a database. Although SQL is a standard, many database products—for example, Microsoft's SQL server product—support SQL with proprietary extensions to the standard language. Other databases, like Microsoft Access, can attach to institutional SQL databases to provide flexibility in reporting and updating.

Static Web Page. A static Web page is a Web page that has been authored as a document—that is, there is no programming involved in the display of the document on the Internet. Where the same information exists in multiple static Web pages, each page must be individually edited to change the information, compared with changing *dynamic* Web pages, where you can change the information in a database from which the page is built without having to individually change all of the pages where the information is used.

Storytelling. Storytelling is the telling of a story, the art in which a teller conveys a message, truths, information, knowledge, or wisdom to an audience—often subliminally—in an entertaining way, using whatever skills (musical, artistic, creative) or props he chooses, to enhance the audience's enjoyment, retention, and understanding of the message conveyed. Stories as a way to communicate messages within organizations have become more popular with the work of Stephen Denning and his work in relation to springboard stories.

Style manual. A style manual is a document created by law firms that outlines all of the structures, styles, and conventions used throughout documents

created at the firm. The style manual should be available physically and electronically.

Styles (Word). Microsoft says that styles are arguably the most important feature in Microsoft Word, and for lawyers, they are absolutely right. Styles are a definition of formatting instructions that you use repeatedly throughout your documents, by using the name of the style you create, rather than having to manually set all of the font, margin, color, and other attributes every time. Styles allow for quick formatting modifications throughout the document and can be tied into numbering to make working with outline numbered lists easier.

Tacit knowledge. Tacit knowledge resides in the heads of people and is gained mainly through experience. It's often personal and difficult to capture, but it has the most value. Tacit knowledge is generally distinguished from explicit knowledge.

Taxonomy. Taxonomy is a system of structured categorization created for a particular need. It is a classification system, with the resulting catalog used to provide a conceptual framework for discussion, analysis, or information retrieval. The development of appropriate taxonomies for law firms is a key and strategic aspect of the firm's knowledge strategy.

Templates (Word). A template file in word is distinguished by its ".dot" file extension. New Word documents are created based on the appropriate template and inherit a wide range of attributes and functionality from the template, including layout and text, automation, styles, and numbering schemes.

Toolbar (Word). A toolbar is a firm-created collection of buttons to automate repetitive functions in the word processing environment and to provide access to utility programs created by the firm to make access to key documents and other materials easier. It is recommended that all firms customize the Word environment of their lawyers and support staff to increase productivity that would always include a schema of appropriate toolbars and buttons.

Utilization. Utilization is one of the four drivers that multiply together to produce Profit per Equity Partner (PPEP), the primary measure of law firm profitability. Utilization is the number of billed hours recorded by a group of fee earners during a year. Firms typically set targets for utilization for each lawyer. Typically, utilization budgets are significantly higher in the United States than in the United Kingdom and Australia. Utilization is calculated by adding total billed hours for all fee earners during the year by the number of lawyers.

VBA. VBA is an acronym for Visual Basic for Applications, which is the programming language packaged into each of the components of the Office Suite. For Word, VBA is the successor to Word Basic.

Viewlets. Viewlets are an innovative way to create and package online simulations of software and other online training. See qarbon.com.

WinHelp. Windows Help were the help programs originally created by Microsoft for internal documentation of its Windows development process. The idea worked, and WinHelp 3 was released with Windows 3.x. WinHelp 4 (released with Windows NT 4 and 95) is still the most robust hypertext system widely available. It was replaced in Windows 98 by HTML Help.

XML. XML is an acronym for Extensible Markup Language, a specification that allows the information within documents to be structured and labeled so that the items of information within a document can be identified, extracted, and used as appropriate by different pieces of software.

Yellow Pages. See *Expertise database.*

Appendix 4: Principles, Myths, and Mistakes Lists from the Gurus

The following list provides Internet addresses for a series of freely available leading articles about knowledge management. It does not attempt to be an exhaustive list of all of the knowledge management articles available. It is a select list limited to the articles that I believe are important if you are considering, or responsible for, a knowledge strategy or initiative.

You should visit each of these links, print the article, read it, consider it, and then file it in an appropriate structure to facilitate later referral. These links are all available online at users.adelphia.net/~parsonsmt/mtp/mustread.html.

Principles

Verna Allee, "12 Principles of Knowledge Management"
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