

## Consultants Corner

# Advancing Technology To Increase Efficiency Of Corporate Counsel's Practice

The Editor interviews **Afshin Behnia**, President & CEO, Mitrastech; **Matthew Blake**, Partner and Electronic Evidence Expert, Franklin Data / On-Site E-Discovery; **Mark Hawn**, President and CEO, On-Site E-Discovery; **Gerard Kral** and **Matt Petrich**, Directors, Duff & Phelps, LLC; **Michele Lange**, staff attorney, Legal Technologies Kroll Ontrack; and **James A. Veraldi**, Executive Vice-President, Micro Strategies, Inc.

**Editor:** How has technology been delivering on its promise of increasing the efficiency of corporate counsel's practice during this past year?

**Behnia:** Progressive legal departments have responded to new, complex compliance requirements by leveraging matter management systems to produce near-instant, accurate and reliable compliance reports that would normally take weeks or months to produce, often with less accurate results. Technologies, such as SOAP and XML, have facilitated this process by seamlessly integrating matter management systems with external applications, thereby creating an operating hub with a rich repository of reliable data that can be mined, analyzed and reported.

I have also seen tremendous efficiencies in the entire process of engagement with outside counsel. Integral vendor management solutions have enabled legal departments to optimize resources, to quickly assign best performers by matching vendor with matter profiles. Matter-centric collaboration solutions have also allowed outside counsel to partner with the in-house team to securely collaborate on matters, documents, discussions, etc. Finally, the tedious process of approving invoices has been greatly improved by workflow and approval solutions.

**Blake:** In 2005 a number of products have entered the market as well as firms offering improved efficiency services to corporate counsel. In particular, with the growing scope of electronic evidence within litigation this year, corporate compliance became a strong discussion among corporations and their legal staff. The quest to be litigation-ready continues to be a discussion and initiative, yet some companies don't know where to begin. As the e-discovery universe grew in 2005, corporate counsel found themselves in search of how to identify where data actually resides and how to extract it. 2005 was yet another year of strong litigation technology demand and those that owned their own technology were generally able to deliver, those that license efficiency products found themselves confined to a non-legal business dictating their efficiency demands.

**Hawn:** Over the past year or so, I've seen more and more outside law firms recognize that if you're marketing to a corporation, not only are you marketing your expertise – that is, your intelligence, the depth of your firm's experience – but also how you're going to minimize the client's costs in the area of document production and document review. By teaming with an e-discovery expert, you can also focus on the technology and method-

ology you're using to reduce the client's data set to the relevant information as quickly as possible. The result is that the lawyers are looking only at the documents that a lawyer should be looking at. That is, the lawyer's intelligence is being strategically applied as opposed to reviewing information that is not important. As a result, document review time is reduced considerably.

**Kral:** On the front end of every system implementation, there should be a requirement to complete some form of a Return On Investment ("ROI") analysis that details the hard dollar savings and anticipated efficiency gains. However, in our experience, companies rarely realize the articulated benefits as departments seldom take advantage of the implementation to change critical business processes. A solid technology implementation needs the support of executive management to convey the importance of the project to all law department staff. For example, when implementing an electronic invoicing system, in order to maximize the system benefits the following must occur: standardization of outside counsel billing guidelines across each business and practice area, centralization of electronic invoice receipt, incorporate best in class bill review and payment processing procedures, use automated rules as the first level of invoice review, calculate a baseline of performance for all outside law firms that will be submitting electronic invoice data and most importantly, mine the data to identify areas for outside counsel cost reduction. Many law departments leave hard dollars on the table by not making fundamental changes in the underlying processes.

**Lange:** Technology has helped increase efficiency in the legal profession in many ways. Perhaps one of the most significant is in the area of legal discovery. Historically, lawyers were tasked with reviewing thousands, if not millions, of paper documents for that "smoking gun" memo or presentation. While the litigation team may not have known exactly where that piece of evidence existed, they did know exactly which files to pull and Banker Boxes® to target. In an age where approximately 93 percent of all information is created electronically and 70 percent of that never reaches paper, the number of relevant documents has grown exponentially. To add to that, with PDAs, mobile phones, USB drives, laptops and various other tech gadgets aimed at increasing work efficiency, the number of places those documents can reside has become virtually endless. With the process of electronic discovery including sophisticated sampling, filtering, concept searching, online review and production, searching gigabytes or terabytes of data has become less burdensome.

**Veraldi:** Within corporate counsel, we are seeing a transition from classic document management systems which enable efficient searching and management of documents, to unified content management systems which control ALL of the electronic content surrounding a matter or deal. This encompasses the increased

use of email and the adoption of imaging solutions. As more and more content is electronically enabled, the corporate counsel's office has improved organizational efficiency through the implementation of "electronic Redweld® folders." Electronic Redweld folders allow the retrieval of relevant content in a matter of seconds, no matter where the attorney may be.

**Editor:** What technology trends do you anticipate in the coming year that will have the greatest impact on corporate counsel's practice?

**Behnia:** Today, forward-looking legal departments have already deployed an Enterprise Risk Monitor to gain real-time visibility into their organization's exposure in the areas of litigation, compliance and asset risks. Technological advances will enable the legal team to deploy intelligent agents integral to the Enterprise Risk Monitor, which will proactively run "what-if" scenarios and alert the general counsel of potential threats or exposures that may otherwise go unnoticed. Also, advances in business process automation technologies will enable the legal team to respond even faster to changing business needs. For example, today, Section 404 of SOX is still open to interpretation, and as soon as legislation is passed that clarifies Section 404's reporting requirements, many organizations will have to quickly change their business processes. Intelligent configuration technologies that eliminate the need for costly, time-consuming coding will enable legal departments to quickly adapt to these new requirements.

**Blake:** They include email, document files, accounting, sales, and enterprise data extraction and compliance. Particularly, corporations that are subject to litigation will find themselves responding to document productions that involve most any area where their data may reside. The growing complexities on how to extract certain data without getting everything and costing 10-100 times what it should will hurt legal operating budgets. More specifically, corporations that have multiple locations across the world can likely find themselves trying to respond to multiple jurisdictions and data protection laws. Now that data has moved from primarily paper to electronic data, the quest for discovery becomes naturally more difficult to limit scope and efficiently respond.

**Hawn:** The world is changing, and it's an exciting place to be. The one thing that we definitely can count on is that there is more change to come. Once things start to move in technology, the rate of acceleration moves rapidly as people start thinking outside the box about how they can address the issues another way to make things faster and cheaper. I'm very excited about the new products and services we have coming out as we continue to streamline the process to take the inefficiencies out of the e-discovery process.

**Kral:** Law Department technology solutions are evolving rapidly and 2006 will be an exciting year. Recently, there has been an increase in the release of legal

system applications that include functionality, which in the past, was only available in multiple applications. This convergence has been driven by users needs, industry consolidation, and the advent of new web-based technology that allows for a richer development cycle. Convergence is most apparent when comparing the functionality of electronic invoicing and matter management systems. Most new matter management systems include some form of electronic invoicing capability while most of the new electronic invoicing systems include matter management functionality. The utility of systems today has extended beyond traditional litigation and into a pure practice management system for any size law department. While these systems can provide a wealth of functionality to the end user and management, it has become even more critical that in order to achieve the desired system benefits, clear objectives and a willingness to standardize processes across practice areas is mandatory. In addition to functionality, comes the benefit of gathering more data for analysis. The data mining process is critical to any management team that desires to have a thorough understanding of workload distribution, outside spend and leveraging work product, as well as the ability to identify opportunities for improvement. Despite the evolution of the systems, the importance of "up front" planning remains critical to the long-term success of the system.

**Lange:** 2006 promises to be another exciting year, full of legal technology developments designed to assist attorneys and corporations to manage the volume of data involved in litigation or investigations. Specifically relating to electronic discovery, corporate counsel today are placing more value on reducing the burden and cost of gathering and producing electronic information – especially when that information is already contained in some type of document management system. In the coming year, streamlined processes for gathering and filtering data from users and systems in preparation for discovery will have great impact on corporate litigation practices. Further, look for technology tools such as online document repositories to continue to improve, giving corporate counsel more control over the document review, production, and case management processes, including the ability to more easily manage document sets involved in multiple pieces of similar litigation.

**Veraldi:** Although the corporate counsel's office was an early adopter of document/content management systems, in the next 12-24 months we foresee corporations expanding the implementation of content management systems to the entire enterprise. This expansion will be driven by productivity gains (think collaboration), as well as corporate governance and compliance initiatives (think SOX, SEC, e-discovery, etc.) As an enterprise adopts content and records management, the corporate counsel's office must mitigate risk and become more proactive with respect to contract and litigation management.