Is the Price Right?

Don't Let Technology Upgrades Become Financial Downgrades

BY ED POLL

Computers will never replace lawyers; they have, in fact, made the work of the law firm much easier. The time savings, efficiency, and commoditization of routine tasks and services afforded by computers and other electronic technology have freed most lawyers to focus on the creative, problem-solving aspects of their law practices. However, it is always necessary to remember the ways in which the price – or rather, the cost – of technology can in part offset its value. Awareness of what technology can consume from a firm's cash flow, as well as from lawyers' billable time, gives a true picture of the return the firm gets on its technology spending.

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TECHNOLOGY AND ROI

All technology investments should provide a positive return to the firm. A 10 percent return is usually considered too low to make the purchase (investment) unless there are other factors involved, such as new services it allows the firm to offer or greater efficiency that it provides. There is no single right or correct rate of return. The return selected or expected is a function of personal choice, available alternatives, and available resources for investment. Because there are invariably several technology expenditures competing for priority, using ROI is a great way to rank them in order of financial preference. Then, depending on the budget and resources available, the most productive or profitable investment can be made first.

Don't automatically assume that a new computer or software will greatly increase lawyer or staff productivity, with a resulting increase in profitability. Projected ROI is often thwarted by human considerations: support staff and lawyers may resist change, be afraid of the new technology, and/or have no emotional investment in its use. In circumstances such as these, the technology can languish until it becomes obsolete, with little of the expected savings or profits. Thinking through the purchase and getting as many people as possible committed to using the technology before it is bought will facilitate a level of usage that produces a higher ROI.

Be aware, however, of the other factors that affect ROI. Take the example of an attorney who had a large personnel turnover and decided to improve the productivity of the new staff by purchasing software specific to the attorney's practice. The cost of the new system and training would be $15,000, but the staff's productivity would theoretically double, allowing for more work, fewer people, and greater cash flow. The calculated net increase in savings and in profitability would amount to $30,000 in the first 12 months alone: an ROI of 200 percent in the

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first year, with a payback period (recouping the initial investment) of six months. The decision seemed easy and the purchase was made, but the ROI was thwarted by human considerations: the staff resisted the change, seemed afraid of the new system, and had no emotional investment in its use. The software ultimately languished until it became obsolete, and the firm realized little of the expected profits or savings.

SMALL FIRMS VS. LARGE FIRMS

This, of course, is a small-firm example, but it illustrates why many firms postpone needed technology investment. Several years ago, the American Bar Association's Legal Technology Resource Center released a survey asserting that only about 12 percent of lawyers use trial technology. Earlier surveys revealed similar low usage rates for case management software (18 percent) and document assembly software (30 percent). Why? Lawyers, especially at small firms, contended that they distrust new technology and are overwhelmed by too many choices.

A case could be made that these lawyers are committing malpractice per se. One of the Rules of Professional Conduct requires that a lawyer be competent to handle a given matter, measured as the standard of care in the local community. If a small firm is not using current technology when competitor firms are, that firm may be perceived as willfully less competent than the competitors. And that's malpractice.

In contrast to the four-, five- or even six-year technology replacement cycles at small firms, larger firms typically make technology a bigger focus of dollars and time. In a survey of selected large firms that I conducted several years ago, 66 percent of the respondents allocated 2 percent or less of their gross revenues for hardware purchases, and 75 percent of the respondents allocated an additional 2 percent or less of their gross revenues for software purchases. These numbers aren't large percentages, but they represent large numbers of dollars. And 67 percent of the respondents said they "aged-out" their computers and related technology before the end of a three-year cycle (17 percent in two years), guaranteeing a continual cycle of expenditures. Thus, the amount of money committed to technology purchases in a large firm can be substantial.

PAYING FOR NEW TECHNOLOGY

To pay for an upgrade, firms typically pursue one of several options.

- **Cash**. This is typically done only for a small purchase (such as a single computer and its software licenses). It eliminates finance charges and fees, but even the few thousand dollars required are enough to be a deal-breaker for some firms.
- **Leasing**. Leases facilitate more frequent upgrades, protect a firm's credit, and can even offer tax advantages. However, lease arrangements are typically limited to computer hardware, still leaving the firm to come up with cash for software and implementation.
- **Manufacturer financing**. These can include items such as technology and services that are usually not covered in lease packages, and may be for as short a period of time as two years. But such programs still are loans, with an organization often not as flexible as a bank.

Bank financing for technology purchases may be through a line of credit, equipment loan, or term loan. The cost of such loans varies; factors include the

firm's bank balance, other services purchased, and credit rating. An important issue in technology loans is that the minute computers or software are purchased, their obsolescence is assured. Their value to the bank isn't nearly so great as a hard asset like real estate, no matter how expensive the technology is. Banks may accept technology as collateral, but will not put a high value on it. It's fair to say that bankers are nervous when it comes to financing IT purchases. Thus, the prospective borrower must provide as much safety to the bank as is possible, especially by contributing capital and collateral to the overall financing package.

ROI PITFALLS OF COMMON TECHNOLOGY

No matter how the technology application is financed, the firm still faces the challenge of ensuring that the level of usage and type of application justifies the expenditure. A closer look at three technology applications that are increasingly common in law firms illustrates their ROI pitfalls.

Blogging. Many firms and individual lawyers avidly pursue blogs as a business development activity. However, "if you write it, they will come" is not how the process works. Bloggers must target their markets, be specific in their blog postings, and be frequent in their posts, following up both by responding to inquiries and by incorporating posted material into articles, speeches, client updates, and so on. This is the only way to reinforce the lawyer's and firm's value to the blog's target market.

Making frequent posts and answering dozens – or hundreds – of e-mail comments can take considerable time. Let's say it adds up to only two hours per workweek. If we assume 50 workweeks per year for ease of calculation, and two hours per week and $200 per hour billable value for an attorney (most are charging more today), the calculation is $20,000 of annual billable time used to maintain a blog. This is quite expensive and can detract from other marketing activities or even from the practice itself unless extreme care is exercised.

Client Relationship Management (CRM) Software. Shared CRM databases on computer desktops can make available to all firm members the personal data and contact history of any prospect – the type of information that used to be stashed away in individual Rolodexes and address books. The problem, however, is that the cultures of too many firms do not support the potential that CRM technology offers. In most firms, "partners" jealously guard client information rather than share it, because compensation and governance remain highly individualized.

For the investment in CRM to be worthwhile, these firms must give up the "my client" mentality in favor an "our client" approach – a task easier stated than accomplished. And even if lawyers are willing to share information, other vital issues exist concerning what information is entered, who enters it, and who verifies its accuracy. No firm can create data fields haphazardly, see how the process works in practice, and then try to reorganize the information after the fact. Best practices require every firm, large or small, to create a standard classification system for every item that is in a client or prospect record. Otherwise, CRM is a wasted investment with little useful return

Knowledge Management (KM) Systems. Investing in KM poses a challenge similar to CRM. KM systems combine the work product of all lawyers into one unified database that can be accessed to the benefit of all clients. Best practices require every firm – whether it has one lawyer or 1,000 – to create a standard classification system for each lawyer's work. The heart of the process involves identifying precedent documents that can be used in future matters and ensuring that they are both identified and easily accessible. This is feasible only by using shared document management systems, such as iManage and Docs Open, and shared e-mail files in Outlook.

If the technology is not integrated systematically from the start, the result will be a haphazard, after-the-fact effort that dooms KM efforts to failure. Moreover, the KM process works only when the information is classified and categorized consistently and frequently. Many lawyers believe that this is not billable time, particularly after a transaction or case is completed, and so they either do not do it or do it incompletely.

No matter how sophisticated the database, knowledge management works only when all knowledge is shared in a way that all lawyers can access it. Failure to invest the time needed to update the knowledge management database weakens it, and holdouts diminish the value for colleagues and clients alike.

A CLEAR ALIGNMENT

These examples demonstrate that achieving a sufficient ROI for technology purchases is no sure or

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easy effort for any firm. In addition to up-front costs, ROI is affected by the time needed to learn and implement the new technologies, lack of any ironclad certainty that new technology will increase efficiency and quality of work, lack of attorney interest, and integrating new technology into the life of the firm without interrupting business.

Lawyers are not technology-averse. The almost universal use of e-mail and word processing attests to that. But unless there is a clear alignment between technology and a firm's goals and culture, technology can risk being more a source of cost than of value.

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