

**In-House**

**LITIGATION MANAGEMENT**



**Complex Cases**

December 15, 2001

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In complex cases, the expense of document management is a significant part of the overall cost of the litigation. The complex work flow warrants the use of paralegals at all levels. Each case is composed of a team of at least three organizations, lead counsel, local counsel and the Client. The importance in managing the Work Flow requires a working file for each team group. It is even common for the lead counsel to keep more than one working file within its firm, depending upon the location and working style of the lawyers assigned to the team. Each member of the team requires access to the entire file or a specific part. **So long as the file is accessible to all, there is no reason why it must be kept in more than one location.**



A Complex case, such as Intellectual Property litigation, requires effective management of more than just documents. It requires effective communications, time management, people management and information flow. A properly coordinated effort will result in a more efficient execution of the litigation plan, with less duplication of effort. A sound Litigation Management Plan will include (1) Team email, (2) a Master Calendar, (3) A Master File and (4) a Litigation Operating Procedure, which is standard in all cases. All of the above fall into the category of Work Flow. Once there is a common understanding of the litigation Work Flow, the focus of the case can remain totally on the substance. The Work Flow will take care of itself. Sound Litigation Management is as much a matter of philosophy as it is effort. **Once the philosophy is understood and the tools are implemented, it becomes a daily way of life.**



Just as the Enterprise has access to its own information on a world wide basis at any time, the litigation Team can be similarly structured. Until now, litigation teams have had limited success in a systematic sharing of information. This is a result of many causes. First, most lawyers are still paper oriented. Since use of paper is such a traditional part of the practice, little focus is placed on more cost efficient means of sharing information. Second, different law firms have different levels of technical sophistication. The success of a plan is dependant upon the capabilities of the least technically sophisticated team firm. Efforts must be made to raise our Team commitment to a standard minimum level. Third, tools are now generally available to permit the implementation of inexpensive and simple litigation management plans. **The litigation file is composed of information, not paper.**



The greatest impediment to the successful implementation of a new litigation management plan is not technology, it is people. An effective plan will require a cultural shift. Lawyers are simply not told by clients how to manage their Work Flow. This attitude was reasonable in the days when the law firms were not charging the client for litigation management. Now, the economic shift requires a new focus. The client's needs and the lawyer's concerns do not conflict, however. The lawyer is interested in maintaining close control to the access and structure of information in the litigation file. The client is concerned with the transactional cost of handling the information. The system should be designed so that lead counsel has total control and access to the information in the litigation file. At the same time, the client can require the means by which the work flows, and thereby control the cost. **Control of the litigation information is a matter of education and not physical possession.**



The Team Technology System will be composed of a number of applications which are already familiar to most law firms. Team e-mail will replace fax substantially but not always. A complete set of e-mail will be maintained and will be available as part of the Litigation File. The Master Calendar will be maintained for coordination and as a document tickler. Daily document flow will be imaged for distribution and later electronic file access. Document production will be managed by an appropriate system and documents will be imaged when appropriate. The System will permit remote access to all information. It will also be designed so that Team members will have remote access to standard applications such as Word, WordPerfect, Excel, and PowerPoint. The System will be used by all teams in all Intellectual Property litigations. Each case will be protected from unauthorized access by members of other teams. **Control of the System will be maintained by a vendor selected by the Client.**



The lead counsel paralegal is responsible for prioritizing and distributing the documents as they are received. The general flow is as follows: (1) Document is coded and imaged within 2 hours of receipt. The coding form assigns a docket number. The original is maintained, on or off site, in a box in numerical order. Copies are emailed to all members of the Team. The coding sheet summary is part of the email communication. (2) Team members can work from electronic or printed versions of the document. The client only pays for one copy. The document is available to all Team members on a very very simple Team database on a wide area network or an extranet for subsequent use. If a document is received by lead counsel paralegal by e-mail, it is coded and saved in .pdf format with all imaged documents. **Control of the daily Work Flow is in the lead counsel paralegal .**



The local counsel paralegal will confirm that lead counsel has received all documents on which lead counsel is shown to have been copied or served. When appropriate, documents received by local counsel will be imaged and e-mailed to the Team within 2 hours. Originals will be forwarded to the lead counsel paralegal each Tuesday and Friday by Federal Express. **Local counsel will have access to the Team System and need not maintain a separate file.**



The lead counsel paralegal is responsible for the Master Calendar which is available to all members of the Team. The Master Calendar will include all dates on the court's scheduling order, all deposition dates, dates of hearings and due dates for documents. **Control of the Master Calendar is in the lead counsel paralegal .**



First, the e-mail system should be secure. Second, an entire file of emails must be maintained so that the Litigation File is complete. More and more communications are occurring between opposing parties by e-mail. Currently, most law firms have no file management strategy to insure that the litigation file is complete. The System will be copied on all e-mail. The e-mail will become part of the daily database so that it can be searched with other documents. All external e-mail to or from a Team member must be forwarded to the System so that it becomes part of the Litigation File. **A complete e-mail file is required for responsible Litigation Management.**



The initial design of a Technology System should be simplistic for a number of reasons. First, it can be implemented quickly and inexpensively. Second, as the System is used, modifications to Work Flow will undoubtedly occur. These changes become cumbersome when the System is complex. Citrix is a software program which permits access to the entire Team Litigation File. It functions as a network server and can be configured for dial-up access, internet access or both. It is clearly recommended that the System be accessed via Citrix or a similar program. Citrix will also enable the Team to work remotely. Any Team member will be as productive remotely as he/she will be at the office. Familiar word processing programs are available, as is e-mail and the Master Calendar. **Citrix technology adds a new bright line in efficient Litigation Management.**



Effective Litigation Management requires a standard design for management of litigation documents. This will undoubtedly include imaging. However, there is much more to the plan than a determination of which documents are imaged. The coding design should be consistent for all Intellectual Property litigations. The nature of the case may require modifications but the structure should be substantially similar. The same coding vendor should be used in all cases when possible. A software program such as Summation should be selected as the Team standard. The documents will be maintained on the System for remote access by appropriate members of the Team. It is important to the effective use and training of resources that one platform be embraced. A significant edge is lost as new programs must be learned. **One document management application should be selected for all cases.**



A significant loss of efficiency occurs when lawyers try to work remotely. This is costly to the case. With the use of Citrix or an Application Service Provider (ASP), remote access to the Litigation File and all related information is incredible. In fact, Team members will undoubtedly find themselves more productive while away from the office because they will not be distracted by other matters. **Teams members will be able to work efficiently everywhere.**



This Plan anticipates that daily imaging vendors, the document production coding and imaging vendor, and the System vendor will be very carefully selected. **If the selection process fails, the success of the Litigation Management Plan will be compromised.**



It is recommended that the daily Work Flow be implemented as the first phase of the plan. A current case or group of cases should be selected. The current litigation file will be imaged and made available to the Team electronically. Comfort discussions should be scheduled with Team counsel and staff promptly. Once the daily Work Flows for all current litigations have been converted, attention should be directed to the second phase of the plan, creating a standard document production coding and imaging design.

**Once the plan for phase one has been approved, a budget for both phases will be prepared.**