

Case/Matter Management

Options Abound

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Finding the Right Legal Process Management Tools In-House or in the Cloud

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One of the biggest decisions legal teams have to make is how and where to run legal applications and solutions. From case and matter management applications to legal hold and e-discovery process management solutions, the choices are plentiful. Once the decision to automate a particular process has been made, a firm's legal team must decide on the best and most cost-effective way to deploy the chosen solution, and ensure that it runs smoothly and does not compete with existing technical infrastructure. Fortunately, there are multiple choices that lower costs and increase business agility, including traditional onsite deployment, server virtualization, internal clouds, external private clouds and public clouds.

KNOW YOUR OPTIONS

Deployment options boil down to two basic models, with nearly unlimited variations within the two: enterprise, or traditional in-house deployment, and the cloud, or software as a service (SaaS), model. The differences between these solutions fall into three main categories:

- **The product itself:**

Enterprise solutions are customizable, whereas SaaS or cloud models are out-of-the-box. Consequently, the complexity of an enterprise solution is much greater than its SaaS counterpart. This does not mean, however, that a cloud solution isn't robust or that an enterprise solution is cost- or resource-prohibitive.

- **Business and marketing models:**

An enterprise solution is purchased with licenses and tends to be far more expensive to purchase and implement, whereas a SaaS solution is subscription based. Annual upgrades and maintenance of an enterprise system are typically between 18 to 22 percent of the initial cost of the solution, whereas all upgrades and maintenance are included in the cost of a SaaS subscription.

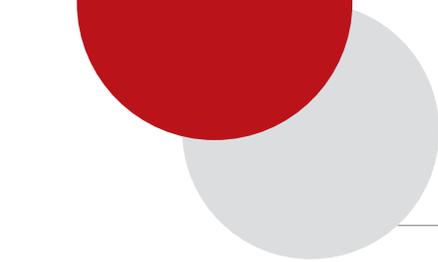
- **IT/Operations:**

Enterprise is an onsite solution requiring server space — virtualized or dedicated — and typically, internal IT resource availability; SaaS solutions are online and available on-demand. From a support standpoint, enterprise is a high-touch model, and SaaS solutions are self-service after initial training.

RECOGNIZE REQUIREMENTS

Before choosing a delivery model, you must first determine that your organization will benefit from an automated solution. In a recent report by The 451 Group, analysts Katey Wood and Nick Patience said, "The e-discovery process, as it typically stands now, is a nine-step point-tool frenzy marked by a legacy of collaborative problems between IT and legal, as well as ballooning budgets and tight time frames."

Firms and in-house counsel can remedy this problem with a combination of data mapping to predict the volume and location of data for review, process management for legal hold and workflow management for guiding the process



through multiple stakeholders and point tools, with attention to deadline and budget.

“Nearly every legal team that handles more than a negligible amount of litigation should consider automating some or all parts of the overall process, as it relates to e-discovery,” said Sal Mancuso, Litigation Support Manager at Willkie Farr & Gallagher LLP. “Chances are that you are already using one or more of the dozens of applications needed to manage the various electronic discovery phases.”

According to Mancuso, the driving factors to automate legal processes are twofold. “First, documenting the process is extremely important for purposes of defensibility,” he said. “Second, data ages, and one of the best ways to manage that whole effect is through software.”

Next, it is important to evaluate the gaps in your process. If you’re looking to cut costs in review, for example, perhaps you should look into an early case assessment (ECA) tool. If you’re looking to streamline the litigation process and coordinate between dozens of applications, people and processes, you should look into a workflow management solution.

Although it may not always be timely or easy, Browning Marean, an e-discovery expert and senior counsel at DLA Piper, believes that identifying and proactively addressing process gaps is an important step. “It’s awfully hard in the firestorm of litigation, in many cases, to take a cool assessment of what’s going on,” Marean said. “But if you can follow a process like that, your organization is going to be much better off in the long run.”

DEPLOYMENT DECISIONS

Once you have identified the need for a solution, the next step is to decide which option best meets your firm’s needs. First, put together a team that includes constituents from IT, legal and practice management areas to ensure all interests are represented and that all needs will be met. While typical IT considerations when choosing a cloud, hosted or enterprise solution focus on resource capacity, performance and storage requirements, legal process management solutions require additional considerations, including privacy, heightened security and accessibility issues.

“For some, the choice is straightforward: High-user entities with capable IT infrastructure invest in enterprise-version legal process management software, while firms or small- to mid-size businesses with lower user volume or infrequent demands choose a pay-per-use SaaS model,” according to Randy Girouard, Manager of Automated Legal Services at Haynes and Boone LLP. “The software selections are plentiful, and now the options to host or not to host allow a firm to decide what is best for business. Price is an obvious part of the equation, but various factors should be considered when debating traditional in-house solutions versus moving operations to the cloud.”

When choosing between a cloud-based solution and an enterprise solution the following factors should be considered:

- **Sophistication of your internal IT infrastructure**
- **Sensitivity to initial capital investment**
- **Complexity of business in process, hierarchy, size and number of employees**
- **Stability of business model and processes, including business growth rate**
- **Need for flexibility to change software to accommodate business needs**
- **Level of integration required with third-party enterprise software applications**
- **Volume of litigation and volume of data**
- **Degree of internal tool usage and adoption**

For example, a large multinational company with a sophisticated IT infrastructure, global operations, complex processes and multiple ERP solutions already in use, is an excellent candidate for in-house legal technology.

But for Brad Berkshire, Director of Litigation Technology at LeClairRyan, legal hold management and case management software hosted in the cloud presented a number of enticing benefits. “Our firm is not of a size where we have the luxury of an onsite data center and a lot of in-house IT personnel,” Berkshire said. “If I have the opportunity to partner with someone who’s made a significant investment in programming and architecture, it’s a no-brainer to me to let our folks do what they’re best at — providing legal solutions, rather than focusing on maintaining technology.”

A final, but extremely important, step is to perform a thorough cost-benefit analysis. At a certain point in many organizations’ evolution, it becomes more financially viable, and beneficial, to have an in-house or enterprise solution. Take a look at long-term projects for your IT infrastructure, realistic litigation loads and business growth before making a final decision.

ENSURE SYSTEM CONSISTENCY AND COMPATIBILITY

Three main factors to weigh when evaluating any legal application are workflow management capabilities, technological compatibility with pre-existing applications and infrastructure, and integration options.

“Project management has become an indispensable tool,” said Girouard. “For us, a solution to automate process, force compliance, ease documentation, provide consistent communication channels, simplify vendor information management and capture critical metrics was a major department requirement.”

Indeed, good project management is critical to every step of automating the e-discovery process, whether you choose a SaaS solution or an enterprise solution, or create your own solution. Haynes and Boone implemented a “best-of-breed”

type workflow management solution to manage their legal governance, risk and compliance processes.

Beyond tracking information, there's a need for centralization of departmental documentation. It makes sense to build in workflow management. It's important to look for "best-of-breed" solutions that will work with your existing technology investments. This emphasizes the importance of integration capabilities and compatibility.

Transcripts, discovery documents, pleadings and trial exhibits are a few of the document types often requiring separate applications to effectively review, analyze or present the content. You may be able to combine assets or find a solution that will work with your existing technology investments to cut costs.

The firm needs to ensure consistency — make sure the process is correct, defensible and that it can be repeated, so there are no questions down the road.

ACHIEVE INTEGRATION

Consider your current business environment and IT infrastructure and ensure that whatever new solutions you bring on board — from case and matter management to legal hold or discovery management solutions — are not redundant, do not compete with existing solutions and are technically compatible.

There can be a need for combining cloud and enterprise technology when there are specific case requirements or client environment mandates. If you have a legacy system inherited through a merger, for example, that can't be retired until the right enterprise solution is found, it can be run alongside other technologies.

A cloud solution that can selectively pull data from onsite client systems for analysis or management by firm attorneys is critical for meeting FRCP mandates and remaining competitive in an increasingly commoditized market. An example of this situation would be a law firm requiring their client's corporate data in order to manage the litigation hold process on their behalf. This would be done through the cloud for a flat pass-through cost.

For both in-house and cloud solutions, availability, reliability and security are of utmost importance. IT resources must be dedicated to any in-house solutions to prevent data breaches and data loss, and any firm using a cloud solution should have the complete faith in the availability and security of the application. Good cloud vendors should offer multilayered security at application, platform and database levels and host data on caged, redundant servers. Client data should be segmented and partitioned on private clouds.

Thoroughly research your vendors' backup procedures and ensure they have a solid exit strategy in place. Good solution providers will offer both cloud and enterprise solutions and allow you to choose which model best suits

your needs. Additionally, vendors should offer scalability and make transferring from cloud to enterprise seamless should your organization reach the point where a transition to an enterprise solution becomes necessary or more cost-effective.

DRIVE ADOPTION

Getting a law firm to look at process management can be challenging. Firms are often legacy- and time-driven. But the benefits of automated workflow management can be presented internally in a way that makes sense to stakeholders. Measure success in terms of performance, quality and dollars to secure internal buy-in.

It's also critical to ensure at the point of purchase that the solutions you choose are sophisticated enough for IT use and intuitive enough to ensure widespread legal adoption. Choose a solution with configurable workflows that can mimic your current business processes to ensure minimal disruption in day-to-day processes.

CONCLUSION

The bad news is that courts are no longer sympathetic to firms or attorneys claiming ignorance about technology, and attorney — and even firm — liability for client's data and processes is increasing. The good news is that you can put automated solutions and processes in place to increase defensibility while still keeping overhead low. Formalizing the process for deciding when and where to run legal applications and periodically re-evaluating those decisions as your business landscape changes should ensure smooth adoption and full utilization of your firm's technology investments, and should keep your attorneys' focus where it needs to be — on the matters at hand. **ILTA**

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