

LEARN TO SPEAK GEEK

Working With the IT Department Can Save a GC's Budget **BY BILL DETAMORE**

Let's face it: The days when the legal department could spend whatever it needed to are over. The days when boards and executive management accepted the costs of litigation without question are ancient history, if they ever really existed.

Today, legal departments are under increasing pressure to meet bottom-line results. Senior management often evaluates the legal department like other administrative cost centers, challenging general counsel to provide quantifiable value to the company and to demonstrate that the legal department contributes to corporate objectives. This mind-set can feel foreign to GCs, particularly corporate litigators. They are trained to advocate zealously for their client, not to analyze the costs and benefits of engaging in a particular strategy or filing a certain motion.

Faced with increased budget scrutiny, some legal departments have taken on aggressive initiatives to recover through litigation more than they spend on litigation. This transforms the legal department from a cost center to a profit center. Other legal departments have taken on new initiatives to cut costs by limiting outside counsel spending, issuing requests for proposals from outside firms to handle certain matters, or requiring innovative legal fee structures based upon results achieved.

Despite the increasing budget pressure, there's little danger that GCs will face layoffs en masse. Despite their attention to the bottom line, companies know that litigation is an inevitable price of doing business. Regardless of how fairly and honestly the company deals with its employ-

ees, customers and competitors, the company will be a party to litigation and should develop the most effective ways to deal with it.

Discovery is a major component of any litigation plan and, usually, the largest cost component. On average, discovery costs consume between 50 percent to 90 percent of an overall litigation budget, according to the *1999 Newsletter of the Administrative Office of the U.S. Courts*. Thus, general counsel can significantly affect the bottom line by modifying the way lawyers conduct discovery.

Recognizing this, many law departments are implementing an overall plan to manage discovery across cases and litigation matters. These discovery management plans are essentially information-management plans for litigation information that contain uniform approaches to handling discovery. These plans vary but most commonly contain standard processes for collecting hard copy and electronic information and for processing such files into standard formats accessible to the entire litigation team. The plans also generally include a standard process for reviewing the information for relevance (to a particular matter) and responsiveness (to a particular request), as well as for applicable privileges.

Discovery management plans leverage technology to provide efficient processes. Because lawyers use the same technology from one matter to another, they become familiar with the tools and become proficient users of technology, ultimately requiring less support from the company's internal information-technology staff.

Lawyers should not undertake development of a discovery management plan in a vacuum. Ultimately, the way the corporation collects information for its litigation and subsequently processes and produces this information will affect many within the company, including staff outside of the legal department. First and foremost, the company's procedures for complying with discovery affect the business unit involved in the litigation and the company's internal IT department.

In many companies, a significant communication gap exists between the IT department and the legal department. In the past, this gap may have affected whether attorneys had access to the appropriate support or software to efficiently perform their jobs. Today, however, with the increase in the discovery of electronic information, miscommunication between members of the IT department and members of the legal department may result in a company's inability to comply with discovery obligations. For general counsel frustrated by IT support, developing and implementing a discovery management plan offers an opportunity to clarify responsibilities, expectations and potential harm to the company that may be caused by its failure to comply with discovery obligations.

HOW TO DEAL WITH IT

Three suggestions can help general counsel work effectively with IT staff:

- *The world does not revolve around lawyers.* Understand that IT procedures and processes are not designed to retrieve information in

the same manner in which litigators require information retrieval. IT builds systems to support the primary business objectives of the company, to process information efficiently for the company, and to protect confidential and valuable business information. When GCs ask IT departments to retrieve “all information relating to XYZ transaction” within a certain time period, information systems may or may not be equipped to handle such requests, and they probably are not equipped to handle such requests within the short time frame required by the court.

- *Speak the language.* The legal department should invest in technology-savvy staff. One of the reasons communications break down between the legal and IT staff is that the two simply don’t understand each other’s vocabulary. When general counsel request support from the IT staff, it would help if they were able to accurately articulate their needs in termi-

nology the IT staff can understand. Worse, when GCs attempt to use technical terms and use them incorrectly, it exacerbates communication problems.

To combat this, legal departments should consider hiring a staff member who understands litigators’ basic technology needs. Typically, this person can be a senior-level paralegal or staff attorney. He or she should, at a minimum, understand the basic organizations and terms surrounding databases, such as tables, records and fields, characteristics of common file formats used in the law department and in the company in general; have a grasp of networking basic terminology, such as WAN, LAN, client-server and terminal-server; and understand storage equivalents. By employing someone who understands discovery obligations and technology, the in-house legal department can greatly expedite the support it receives from IT.

- *Don’t go it alone.* Include IT in discovery management planning. Any corporation beginning to assess the need for a discovery management plan should include a senior member of the IT department on the committee to evaluate the technology solutions and ensure that the processes and technology are compatible with the company’s other information systems.

Dealing effectively with the IT department can help general counsel do their jobs more efficiently. In a time of increased budget scrutiny, cost-savings and performance improvements are something all general counsel should encourage. ■ ■ ■

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