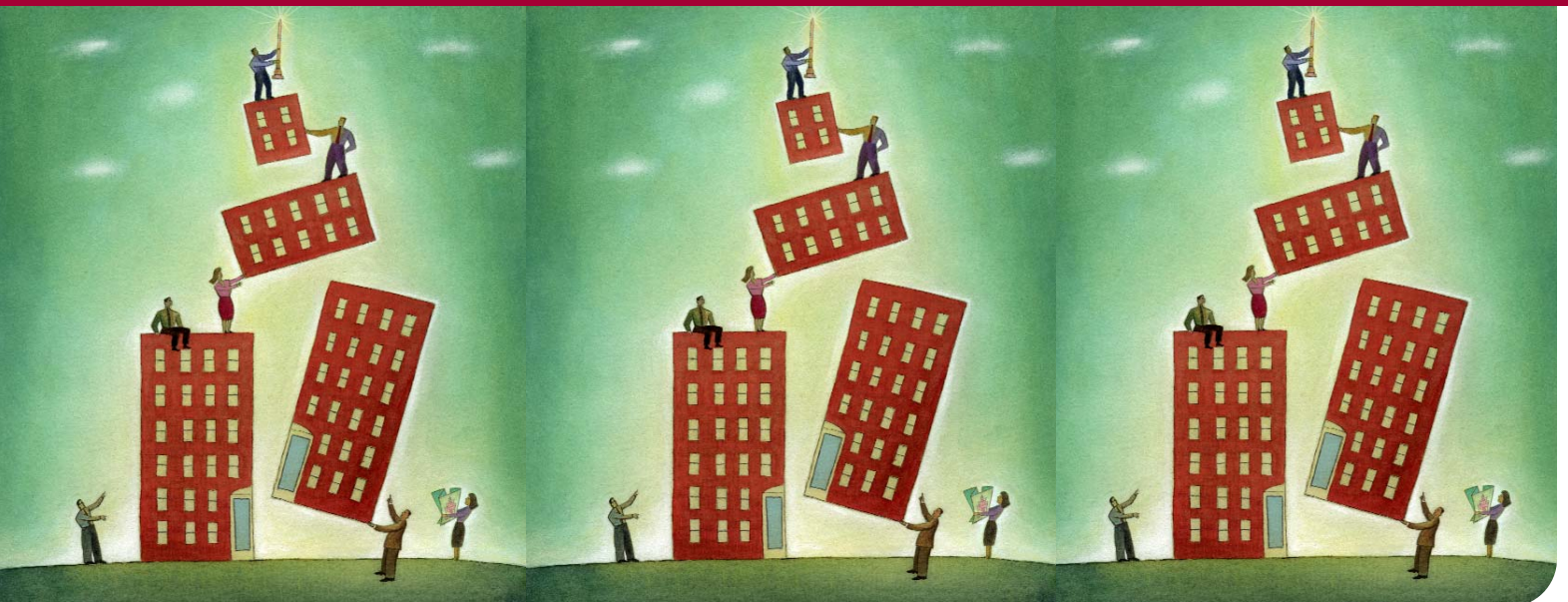


# CONVERGENCE OF DM AND RM

## Building a Better Mousetrap

November 2006



A Publication of ILTA

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**Statement of Purpose:** ILTA is the premier peer networking organization providing information resources to members in order to make technology work for the legal profession.



## EDITOR'S NOTE

We have records, so we need to have records management. We have documents, so we need to have document management. And in the wake of so much electronic content, defining where content should reside is difficult.

Firms and law departments need to determine what constitutes a record. After that determination, an assessment of whether the file lives in a document management system, a records management system, an amalgam of the two or an "all-in-one" solution needs to be made.

Our authors share their insight into what should be considered before committing to any of the available options, and they offer suggestions on what may be the best choice for your organization.

Ken Hansen, Editor

## ABOUT ILTA

Providing technology solutions to law firms and legal departments gets more complex every day. Connecting with your peers to exchange ideas with those who have "been there done that" has never been more valuable.

For nearly three decades, the International Legal Technology Association has led the way in sharing knowledge and experience for those faced with challenges in their firms and legal departments. ILTA members come from firms of all sizes and all areas of practice, all sharing a common need to have access to the latest information about products and support services that impact the legal profession.

by Mark Moerdler, Ph.D. of CA MDY



## ::A Primer to DM and RM

Determining the software applications needed to meet an organization's often inconsistent needs for managing documents can be very confusing. This is especially true since, within an organization, there are a wide range of reasons for which documents must be managed, often requiring different feature functionality and potentially different applications.

Two of the major classes of applications that organizations select are document management systems (DM) and records management systems (RM). To determine which of these applications is right for an organization, it's important to consider their differences.

### The Problem

Organizations create large volumes of electronic files which are generally created for specific business reasons and contain important organizational information. In the early days of computers, documents were stored by users in locations that best met their personal requirements based on a categorization structure that they understood. Depending on the users' job requirements and the specifics of the content, the documents were created by one user at one point in time or collaboratively through multiple iterations. Some files might have had a single purpose with no residual importance to the organization, or they might have had intrinsic value or contained business information that was critical.

As the quantity of electronic documents has increased, the problems of managing documents have intensified. This is especially true for documents that have organizational value. These documents may be interspersed with transitory documents (e-mail messages) that once created can be deleted. Adding to the complexity, a document's value and need to be accessed can change over time. During the creation process, many documents are edited on numerous occasions potentially by differing personnel within the organization.

Once a file finalizes, it often remains important to the organization. Therefore, the ability to access the document can become critical. Prior to the explosion in electronic document use, the critical documents were physical in nature, and organizations were using manual or computerized records management processes and procedures to track and manage the physical records. Now, with the proliferation of electronic files, these methodologies and often these products, have expanded to manage electronic documents of record.

Over time, the electronic file problem has gone from a departmental issue to an enterprise-wide problem, and organizations are looking for overall solutions. Government legislation and compliance drivers further complicate this.

RM and DM will each mitigate some of these problems. However, when properly integrated together and when end users have been trained, these systems can solve many, if not all, of these problems.

### Nomenclature

In order to understand the product landscape, one must first understand the terminology that is commonly used to describe documents and the different applications that are available to manage them. Unfortunately, these terms were not centrally created and are not consistently used but are the most common and accepted definitions.

*Draft document:* A draft document is a document that is being developed and is not yet in its final form. A draft document could stay in this status for an indefinite period of time or, after being finalized, could eventually become a document of record.

*Document of record:* What constitutes a document of record can be driven by many factors including legislation, regulation or individual business policy. According to the International Standards Organization

(ISO) a record is “information created, received and maintained as evidence and information by an organization or person pursuant to legal obligations or in the transaction of business.” Once a document has been used by the organization, the draft document may become a document of record. Please note that “non-final” documents may become records (versions of a budget based on *Sarbanes-Oxley*) and, furthermore, some documents may never become records.

*Document management system:* A document management system is a software product designed to assist in controlling and managing the drafting and versioning of electronic documents. Document management systems typically provide metadata, security features, as well as indexing and retrieval capabilities. These products were initially created to meet the requirements of document intensive organizations and business functions such as regulatory filings.

**DM products are architected to simplify the creation, drafting and collaboration process; while RM products are architected to manage large volumes of uneditable records for a period of time and then flag them for destruction.**

*Collaboration system:* This application is similar in nature to a document management system and is often built on DM, having a functional emphasis on supporting the drafting and collaboration of documents among internal and external users. These systems notify users working on a specific project as documents are created and/or changed.

*Imaging system:* This application was developed to manage the storage and access to large volume of images. Its functionality often overlaps DM and incorporates scanning, image redaction and compression. Often it is integrated with line-of-business products (accounting systems, manufacturing systems) to link images to line-of-business information (signed purchase orders to vendors in an accounting system).

*Records management system:* RM products were initially created to manage organizations’ physical records from initial creation through archived box management and final disposition (destruction or permanent storage). With the electronic document explosion and the prevalence of e-mail, these products were enhanced to include the management of electronic records.

For our purposes, we will combine document management systems, imaging systems and collaboration systems under the umbrella term of DM. This does not mean these products meet the same organizational requirements, but they are involved in the document creation, capture and drafting process and can be considered as variants of the same class of products.

## Functionality

In general, DM and RM have their own specific set of features. These features affect both the application architecture and the way in which the applications can be used. In this section we will review the principal standard functionality of the applications.

### General Functionality

Both families of products have the following general functionality in common:

**Metadata:** In order to track the electronic documents, these applications link a set of metadata fields to each document. These metadata fields define and categorize the documents.

**Database:** In order to link the metadata to the documents or records and to track the documents and their audit trails, the applications use some form of database. Most of the leading products use a SQL database.

**Full-text index:** Many DM and RM products create a full-text index of the electronic records, supporting searches based not only on the metadata fields, but also on words within the records.

**Storage of Documents:** Both families of products should store or manage electronic documents. Some RM systems have their own electronic repositories, while other systems use third-party repositories.

### DMS Functionality

DMS products are designed to assist in the drafting of documents, specifically:

**Drafting and collaboration:** This is the management of who is working on a document and assurance that only one person is editing the document at any moment in time. Without this functionality, it is possible that multiple users may attempt to access and modify a document simultaneously, generating inconsistent results and lost or missing changes.

**Application integration:** To simplify the document creation process, DM applications normally support integration to desktop applications. Within these applications, users are able to search, open and save documents directly into DM. This integration replaces the standard Windows interface for opening and saving documents. In addition, there is often more than one method for importing documents into the DM.

**Version control:** Most DM applications include the ability to manage multiple versions of a single document. Depending on the specific DM product, it may have the same basic profile for all versions while other products have a separate profile per version.

**Searching:** In order to make these applications more useful, they must have multiple methods for allowing users to access their documents as well as other users’ documents they wish to edit (within desktop applications, metadata and full text searching). In addition, many applications track each user’s recently edited documents, facilitating user access to their documents in process.

**Security:** Different DM products have different security capabilities, both in terms of the functionality that can be

performed, as well as the documents users can access. It is important to note that the principal DM solutions in a legal environment have historically secured only the document and its metadata creating potential ethical wall problems. For example, users may be able to see the client and matter information but not the documents.

## Records Management Functionality

RM systems are designed to ensure that documents of record are managed as provable, uneditable originals and their life cycle is tightly controlled. This leads to a very different set of requirements:

**Document capture:** The system must have multiple methods for capturing documents, including application integration similar to DM. It can include e-mail integration, browser-based capture and desktop capture.

**Retention and disposition:** At the heart of RM is the ability to manage the life cycle of records. This is done by a set of rules that determine how long to keep every set of documents based on legal, regulatory and business requirements and then flag the record for deletion. Retention rules can include:

- Time-based rules (keep the record for 10 years)
- Event-based rules (keep the record until the contract has expired)
- Time- and event- based rules (keep the record for 10 years after expiration of the contract).

**Disposition hold:** Based on specific legal, regulatory and business requirements, an organization may need to override the disposition of selected records and place them under a “hold.”

**Searching:** RM products include the capability to search for documents based on their categorization, metadata and full text. Searching is normally performed to find all documents relating to a specific project or business issue.

**Discovery and document export:** In addition to allowing users to access individual records, RM products support the review and export of large volumes of documents based on their search criteria, supporting discovery requests based on legal and regulatory requirements.

**Management as a record:** Since files placed into RM as documents of record must be provable, uneditable originals, the system must have built-in functionality to ensure that documents of record are not modified. Some systems support the ability to change documents and save them as new versions of the existing record or as new records.

**Security:** The security features available within RM products differ greatly based on the specific environments the application was developed to meet. If the RM product was designed to meet the DoD (Department of Defense) 5015.2 Chapter 4 security standard, then there are very powerful capabilities to limit the functions individual users can perform as well as the records they can access. Under this standard, security is based on the user's group, the record's supplemental markings (*e.g.*, classified, eyes-only, executive officer, board of directors eyes-only) and code words.

**Audit:** Actions performed on records as well as configuration information is stored within an audit trail. Depending on the specifics of the applications and whether the product meets the DoD 5015.2 standard, this auditing can be very powerful and contain virtually every action performed by a user or administrator.

**Physical records:** RM products manage more than just electronic records. Most products also manage physical files and boxes as well as their location from initial creation to final disposition. This is done either by bar code labeling the specific objects (files, boxes, offices, cabinets, and shelves) or by tagging objects with RFID (radio frequency identification) tags. Managing both electronic and physical records with a single RM application is critical in order to assure that retention, search and disposition hold are consistent across all records. Without a consistent approach, an organization is bound to apply records management incorrectly and expose itself to legal or regulatory problems.

As can be seen by the functional requirements, both applications contain some similar functionality (*e.g.*, searching, document capture/application integration). But the difference is more than terminology; DM products are architected to simplify the creation, drafting and collaboration process; while RM products are architected to manage large volumes of uneditable records for a period of time and then flag them for destruction.

## When to Use Each Product

Both DM and RM products have value within an organization. DM is very important for corporations, especially in departments in which complex document drafting occurs including: the legal department (for contract negotiation and tracking); accounting (for budget development); and support (document development).

RM is required wherever documents of record are created and/or must be managed, spanning virtually every part of many organizations. For example: legal department (final contracts); accounting (invoices, purchase orders, budgets); human resources (employee correspondence, employment agreements); and product development (product design, development notebooks).

For professional services organizations, especially law firms, DM is critical for the document creation process, and RM is easily as critical. These organizations create large volumes of client records that must be managed in order to meet their custodial responsibility, especially true given the recent trends in which client/attorney privilege has been breached by the courts, and attorney records, including e-mail, have been subpoenaed.

One interesting issue that often confuses organizations, including law firms, is that there may be requirements for both DM and RM. In an attempt to simplify the user experience, firms consider a single application to manage both draft documents and records. This scenario is possible in some instances, but the underlying architecture requirements of DM versus RM often leads to the implementation of a combined system that meets only part of the document creation or part of the records management requirements (*e.g.*, physical records management capabilities are highly limited or non-existent). Another approach called Federated RM exists, in which enterprise RM is

integrated with the organization's DM or even multiple departments' DM solutions. This approach allows the implementation of a powerful system to manage and control the drafting process for those users who require this functionality, while allowing the organization to overlay the key requirements of records management (retention, managing documents as records, discovery, etc.).

## E-Mail

A substantial portion of the electronic documents created within an organization are e-mail messages. The obvious question to be addressed is where would be the best place to store this e-mail. The issue arises because law offices may draft documents and then share the draft documents with external users via e-mail rather than using a collaboration system. When this occurs, users receive e-mail messages that contain attachments that must be placed back into DM for additional internal editing. For this reason, it may make sense to store draft-specific e-mail messages in DM.

Further, a portion of the e-mail messages, both sent and received, are in fact documents of record and need to be stored accordingly. Both e-mail messages and their attachments that are required to be retained based on legal, business and regulatory requirements should be stored in RM. It is important to note that even e-mail messages containing draft attachments may need to be stored as documents of record. For example, an attachment may show the intent of contract negotiations and, therefore, may be required to be stored as a record. Another example is messages related to budgeting for public companies that may be required to be managed as records based on *Sarbanes-Oxley*. In this instance, the Federated RM approach would be especially important. It would allow the organization to store the document in DM as part of the drafting process while declaring it as a record to RM and locking down the draft copy as uneditable. The end users can then continue to edit the document and save it as a new version. In this manner, both the end user drafting requirements, as well as legal and regulatory requirements, are met.

A major difference between DM and RM relates to records retention and destruction. E-mail is a constant challenge to control because it is often used casually. Businesses and individuals have only recently become more aware that e-mail messages can be critical documents of record. In an article titled, *How to Optimally Manage E-Mail in the Enterprise*, (KMWorld, October 2006), the most appropriate use of e-mail archiving and RM is discussed.

*The reason retention is at the heart of the e-mail problem is because it represents a business asset. As an asset, it has both user and business value. As business information, it carries retention requirements defined by laws and statutes; and, unfortunately, these laws make e-mail management a high-risk area because it can be used against an organization in court and/or by regulators.*

*Retention is also costly in two ways: pure storage costs and the cost of review as part of a discovery process. In a 2006 report, Forrester Research stated firms need a way to archive only e-mails that are business records for only as long as necessary; and organizations must be able to produce only*

*relevant records as part of a legal discovery or internal investigation.*

Stringent compliance requirements dictate that organizations cannot improvise when it comes to the e-mail destruction process. E-mail should never be destroyed specifically to avoid legal complications or regulatory intervention.

## The Ultimate Decision

DM and RM are very different in nature and in architecture. The functionality that they offer is radically different, as is the information that they store. Both systems have applicability within an organization, especially within a law firm, but for different reasons. Therefore, the best solution would be to install both systems where applicable and integrate the systems under a federated RM approach to ensure that all the users' needs are fulfilled while meeting legal and regulatory requirements.



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by Melissa M. McCrea and Robert C. Tooker  
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## ❖ Matter-Centricity, Taxonomy and So Many Questions

The convergence of document management (DM) and records management (RM) should make every firm stop and think about their strategy in the years ahead. An increasing level of overlapping structure and functionality became apparent when DM vendors introduced matter-centricity. Suddenly, the “client,” “matter,” “file” and “folder” taxonomy native to RM systems for organizing paper documents emerged in DM systems for the purpose of organizing electronic documents, often the electronic versions of the same paper documents found in RM folders.

A case could easily be made that DM has mimicked RM taxonomy in order to arrive at the same matter-centric level of organization. To further illustrate this point, the “client file” in law firms traditionally has been thought of as a set of physical file folders. Today, however, the physical client file is rapidly morphing into an electronic client file with taxonomy based largely on the traditional records filing system.

DM vendors are encouraging law firms to use their DM systems as the preferred repository for e-mail, images and all other electronic versions of documents with the promise that this will establish an easily accessible matter-centric file view of these documents. But does a view that excludes physical records truly give a full picture of a matter? Is it really wise to fill your DM with all manner of electronic files? Should you duplicate taxonomy in DM that may already exist in RM? In which system should the electronic client file reside? These are some of the questions firms should consider before jumping on the matter-centric bandwagon.

### An Overview of Document Management

As desktop word processing became more prevalent in law firms, it was apparent that organizing electronic documents in a PC's native filing system (e.g., DOS or Windows) would not suit the needs of the legal

community. In the 1980s, technology companies began to develop DM systems that would allow users to share documents without losing edits, more easily search for and retrieve documents and enforce conventions for naming and tracking metadata.

Since e-mail and other types of electronic documents have come onto the scene, DM systems have seemed to be the logical place to store them. DM vendors have developed integration with e-mail systems to make saving e-mail to the DM a simple process. Attorneys are generally comfortable saving and retrieving items from their DM, and they trust it to be a reliable repository for all things electronic.

Today's DM systems organize word processing documents, e-mail, presentations, images and much more. Moreover, with the ability to have all of this information for a particular matter in one place, a matter-centric DM begins to emerge as a powerful tool for attorneys.

### A Brief History of Records Management

RM was born the minute legal professionals had the need to store and retrieve physical records. Early on, attorneys developed taxonomies for the files they produced (e.g., “client,” “matter,” “file,” “folder,” etc.).

With the advent of computers, attorneys and records managers were able to track the circulation and disposition of physical files without going into the file room. RM systems created standard file labels and a default set of folders based on the type of law. Physical file tracking via barcodes was introduced, and some RM systems allow attorneys to request physical files electronically.

Recently, RM systems have had to change to accommodate files and documents saved in an electronic format. E-mail and electronic documents need to be captured. Document imaging has given firms the ability to scan documents as images directly into their RM system.

The need to enforce records management strategies over more than one repository has led to the development of “federated” or “in-place” records management — the ability to control electronic records where they live and search multiple repositories from RM.

Like DM, RM systems are also seamlessly integrating with e-mail systems as well as with DM systems. Some of the access controls that traditionally had been handled by physical access to the file room are now handled with electronic security and ethical walls. A record can be located by parameters such as client, matter, document type, partner-in-charge and many other criteria. Most RM systems have exceptionally robust search functionality, including full-text searching for the electronic record store.

## It makes sense to use DM for work-in-progress and RM for anything that has graduated from work-in-progress to an actual record.

### Converging Systems

So do we really need both? Given the clear convergence of DM and RM, this is a logical question to ask. The answer is undoubtedly “yes.” RM is not DM and vice versa. Trying to make one behave as the other would compromise the functionality of both. The resulting environment would be something less than the best of both environments.

DM systems have been developed, first and foremost, to manage electronic documents. Physical records — including the tracking of their circulation and disposition — are not something a DM is built to accommodate.

On the other hand, RM systems have been developed primarily to track records and other information for a specific client and matter. Other kinds of documents — a favorite guacamole recipe, a list of secretaries who will be covering reception — are not something RM is built to accommodate.

So, if both these systems are clearly needed and can accomplish some of the same tasks, where is the dividing line? Moreover, where does the promise of matter-centricity under DM fit into this process?

To answer these questions, let’s go back to the original purpose of each of these systems. DM systems were created to help law firms manage work-in-progress. The nature of DM is to make it easy to create, locate and organize documents. Secretaries, in particular, need to be able to create and retrieve documents quickly.

RM systems were created to hold physical documents in a secure, unalterable and organized fashion. Enforcing the same rigid controls used for records stored in actual file folders would impede working on documents that are still being revised or formalized. The kinds of work-in-progress typically saved in a DM can be compared to the notes, multiple drafts and other papers often found on an attorney’s desk. Imagine forcing an attorney to organize what’s on his or her desk in the same rigid manner usually required by the records department.

At Cummings & Lockwood LLC, we’ve found that our attorneys do not spend as much time as we had assumed in the DM system. Secretaries, on the other hand, spend most of their time in DM, and their approach to work is on a more granular document level.

Following this logic, it makes sense to use DM for work-in-progress and RM for anything that has graduated from work-in-progress to an actual record. A Word document lives in DM while it’s being revised. If and when that document becomes fixed or permanent (*i.e.*, when the attorney would consider sending a hard copy to the file room), RM should take over management of that document.

With the exception of draft messages, e-mail would never live in DM. Once it has been sent, it’s a matter of record. Therefore, e-mail should go directly into RM if it’s related to a matter. Images are also static unless they are being scanned in order to be modified. Thus, they should also go directly into RM.

Having RM control all records from the moment they cease to be transitory or in flux means that client file transfers, file retention and disposition rules as well as other records management functions can be carried out with extreme accuracy.

Moreover, with RM controlling all records, it’s easy to identify nonrecords in the e-mail and DM repositories and remove those items regularly, a huge boon to firms from a loss prevention perspective. When records can be separated from nonrecords quickly and efficiently and the nonrecords purged as appropriate, electronic repositories remain as clean and small as possible, significantly reducing risk to the firm.

The very distinction between DM and RM makes this much easier. Whereas many firms have implemented policies that restrict the number of messages an individual may keep in his or her “Inbox,” “Sent Items” and “Deleted Items,” others have implemented e-mail and document archive systems that tend to perpetuate the storage of nonrecords.

What happens to documents in the DM that have not been declared records after a matter closes? Many firms opt to archive them after a certain period of time or leave them in the DM until a compelling reason to deal with them arises. In our view, these documents should be deleted upon matter closure as a matter of policy and good DM housekeeping. They either have value as a record (or perhaps precedent) or they don’t.

### Where Does Matter-Centricity Fit?

If we keep e-mail and other non-document content out of DM, will our attorneys have access to it in a matter-centric environment that is such a powerful tool? Yes. Some RM systems allow for a view into a matter directly from Outlook or other e-mail systems. From this view, an attorney can see, by matter, what physical files exist and where they are located. Additionally, attorneys can see all of the detailed information about a matter typically maintained in a “best of breed” RM, including key dates, office, area of law, matter assignees, conflicts, parties and so much more.

If images, documents and e-mail have been declared as records for the matter, the attorney can also see any of these (and their native metadata)

from within Outlook or other e-mail systems. Now that's matter-centricity. It includes all matter-related information, even the physical!

In RM, electronic records can be full-text searched within a matter or across all matters. Finding documents is simple because the taxonomy that exists in the RM is the same taxonomy the attorneys established for the particular needs of their matters. Looking for information in the RM is very natural for most attorneys.

One of the challenges of creating a matter-centric DM has been the creation of document and workspace properties that accurately mimic those of RM. This can quickly lead to an unwieldy number of properties and property values. It may also explain some of the resistance to a matter-centric DM, particularly among secretaries. Why not leave DM free of the nuances of physical records taxonomy and make use of that taxonomy in RM where it belongs?

In our case, we felt that the starting point of electronic records management in a law firm was the integration of DM, RM, e-mail and imaging — all presented to the user in a familiar interface. With DM and RM integrated with Outlook, we have the ability to file electronic documents and e-mail quickly and directly into the RM system based on the existing RM taxonomy. Additionally, we have the ability to scan documents into either the DM or RM depending on whether they are static records or works in progress.

Moreover, the resulting view of a matter in RM (from within Outlook) is truly a look into the entire contents of the electronic client file (without the work-in-progress which is only a few mouse clicks away in DM). This approach effectively unites two systems into a workspace where users spend most of their time and has proven to be a powerful tool for attorneys. It requires virtually no changes to or replication of our existing records taxonomy or processes.

### **It's All About Defining the Taxonomy**

Client/matter-driven folder structures are popping up everywhere, in DM, RM, e-mail systems, etc. From a systems integration perspective, proliferation of multiple taxonomies is inefficient. With respect to integrating DM and RM specifically, the essential question is: Will there be two separate taxonomies linked or mapped to each other or one unified taxonomy shared by both systems? And if the answer is one taxonomy, then which system, DM or RM, is the appropriate driver or "system of record?"

The correct answer may vary depending upon a firm's starting point. When implementing a matter-centric approach, firms with newer electronic RM and a strong records management program may choose to leverage their RM taxonomy when integrating DM and RM. Firms with nonelectronic RM or a less-developed records management program may opt to build their taxonomy from scratch and manage it from their DM system.

The physical client file is far from becoming extinct! In the final analysis, the taxonomy developed will be intrinsic to federated records management of both the physical and electronic components of the actual client file (which has always been a function of RM). It will impact DM only as it relates to grouping electronic documents in a matter-centric "client file" view.

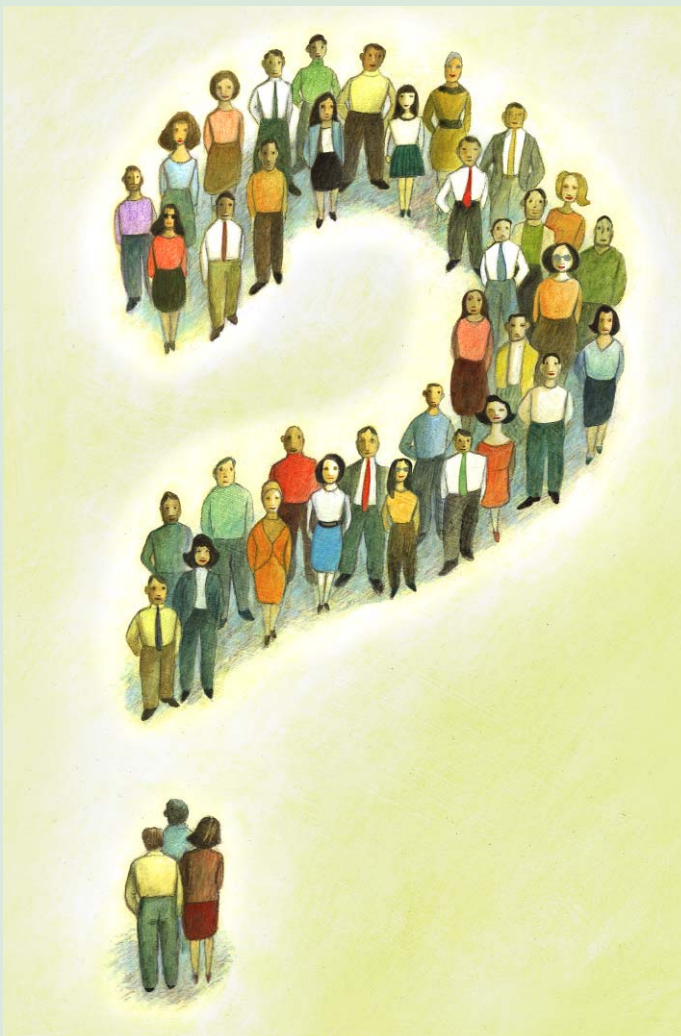
Based on our opinion that the client file lives long after the conclusion of a matter and that the client file trumps work-in-progress, we believe that RM is the ideal foundation and appropriate "system of record" for setting up the taxonomy and thus the electronic client file.

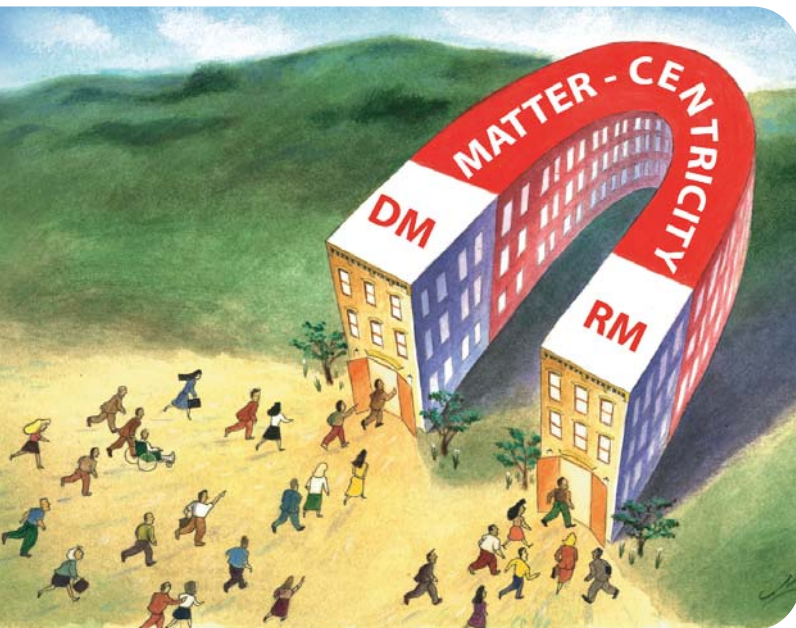
### **Examining the Whole Picture**

It's important to include records managers in conversations regarding the convergence of DM and RM. Some records managers may be unaware that RM characteristics are being offered in DM systems and might be astonished at the similarities. Records managers may have valuable information to share with IT folks who aren't always as familiar with traditional ways of storing physical files and documents.

Using DM to set up a matter-centric environment definitely has worked well for some firms. However, if a firm has a robust electronic RM system already in place, then that firm should be asking the same questions considered here. There's also a danger that IT folks can become dazzled by the novelty of DM matter-centricity and forget about leveraging what's in their existing RM system.

The concept of matter-centricity is nothing new. It's how attorneys have always organized their documents and records.





by David E. Kiefer, Esq. of Document Automation Developers, LLC

## :: Matter-Centricity Bringing DM and RM Closer Together

**DM** systems have included RM-like functionality since their inception. Common aspects of all DM systems, such as version control and history tracking, are essential to satisfying RM and other legal recordkeeping requirements in professional industries. The days of the “we never delete anything” mentality, historically common in law firms, are numbered. While there may be debate about the driving forces behind this new attention to the end-of-life side of “cradle-to-grave” content management, the issue cannot continue to be ignored. DM matter-centricity presents law firms and other types of businesses with new tools and techniques for attacking the problems that come to light when examining how to update to an efficient, flexible, compliant environment.

### **Records Management: Naturally Matter-Centric**

The core operations of any records management (RM) system revolve around the retention schedules developed for the actual records managed by the system, whether electronic or paper. Retention schedules are directed to specific records by their document classification (drafts, executed documents, filed papers, etc.) and should also be applied modularly to clusters of related records in the parent container of the documents: the transaction, relationship, client or matter.

Stages in the life cycle of the matter itself can have an important impact on the RM processing operation appropriate for the records content: delete, retain, archive, lock, secure, etc. This is true for DM matter-centricity as well. Core triggering events for RM operations can therefore be controlled by specific events in the life of the matter such as the execution of a transaction, the completion of a lawsuit, the issuance of a patent and so on.

RM operations are also dictated by the nature, type or classification of the document or content but should still be subservient to the parent

matter. For example, two pleadings filed in the same month years ago might be processed differently by the RM system if one suit is still active and the other was dismissed long ago.

Most RM systems provide users with options to search records in a variety of ways, including by the matter related to the records. This may be the most logical and intuitive method. Most attorneys and other legal support staff don't care about the identifying number on the box containing the files, but they do know they want to locate documents for a specific case and within a specific timeframe on a given matter.

One of the challenges with modern RM systems is creating the RM-based matter-centric architecture for the record content that will be tracked over the life of the matter. In the DM matter-centric world, the kind or type of matter is of critical importance. A litigation matter will not have the same structure as an estate planning matter, a real estate matter or a patent matter.

Some matter types will have simple generic structures with a single retention schedule that applies matter-wide. Others may have complicated structures with different retention schedules for different types of content. Modern RM systems provide an array of tools for addressing these structural issues, but what about the electronic side of content production, the DM system?

### **Document Management: Historically Unstructured**

Historically, the leading DM systems were profile-based. Users were required to fill out profiles with certain types of defining information associated with each document being saved. These profiles became database records associated with each document and version, along with associated metadata for tracking history, security, and so on.

Examples of profile metadata include information such as dates, text, numbers, Boolean terms and validated “look-up” values. Profile metadata fields could be created for various purposes such as description, author, client, matter, jurisdiction, practice area and document type. Additional metadata (some of which is critical to RM events) is captured automatically, such as the date created or edited, the name or other identification of the user interacting with the file and the application used to create or save the file.

The accuracy of the completed document profile was critical in the life of a managed document. Any future events tied to the document — including its ability to be found and repurposed by other users — were contingent on the completeness and accuracy of the data initially provided in the document profile.

While these DM systems provided a means of organizing content with folders, projects or other structured containers, the chore of the profiling process limited users’ overall adoption and active maintenance of such systems. They were often required to move content into these containers after, as well as during, normal profiling operations. This second step merely prolonged the drudgery of document creation.

The DM containers could not be assigned metadata and security values the way the newer completely matter-centric systems can. Content could not inherit metadata or security values from the location where the content was stored or referenced. The container structures themselves had limitations on security and metadata inheritance, which also caused additional work for users. Different unrelated documents could be stored in the containers without any consistency in profile data or security.

Similarly, human entropy caused by laziness, lack of training, improper system implementation, overly complex DM system design or subjective document classification schemes led users to take shortcuts when profiling documents. People relied on personal naming conventions, author information or chronological windows as their means of finding documents.

When not required, profile data fields were often skipped. For required fields, users made arbitrary selections, marked everything “personal” or picked a validation value they could easily remember (or one which was simply at the top of the list). Some users preserved document ID numbers for important documents in personal “black books,” as their way of recalling important documents in the future.

Poorly implemented, underutilized and sloppily maintained DM systems greatly diminished the ability to retrieve content. Many users became heavily reliant on full-text searching for document retrieval, which has quirky issues of its own. Since content retrieval is one of the key ways a DM system has of returning value and efficiency to a user community, the failures of the system caused by a small degree of improper profiling snowballed until only the most conscientious users saved and stored content correctly.

### **Matter-Centricity with Modern DM Systems**

Modern document management systems include more sophisticated matter-centric architectures where the design is more closely matched to specific analogues in the physical (primarily paper) world. For

example, matter “workspaces” can be defined and become the core items of the matter-centric architecture. In general, a workspace is a container for all of the content of a specific matter regardless of where or how it was created.

The defined workspace can contain both structural elements (for organizing content, managing security and profile metadata) and content containers (where the actual content is stored or accessed through a stored search).

Historically, matter data was applied accurately to a greater degree than other user-definable, document-specific profile values. Primarily, this was because of the more serious financial, client satisfaction and malpractice implications for the firm and the end users. This key information can be leveraged to implement a matter-centric design rapidly and, if necessary, ease the transition to simpler, more correct, RM-conscious content identification and organizational schemes.

### **Submatter Structural Elements**

Different types of matters need different types of structures to satisfy the needs of the internal users (attorneys, administrators and others), external users (clients, co-counsel and others), RM and other administrative requirements. Attorneys on a litigation matter may want structures for organizing different aspects or phases of the matter/case, like pleadings, discovery and so on. Estate planning attorneys may want a simple design with e-mail and documents as the primary containers.

Historically, DM systems identified documents by their “document type” or “class,” such as pleading, agreement, correspondence and others. This identifying metadata is independent of the “application” value, which identifies the physical computer file type, like “Word,” “Excel,” “Acrobat,” etc. The document type value made it easy to identify similar documents in searches (*e.g.*, “show me all of the WILL documents created by user JSMITH in 2005”), but also to link the documents to the primitive document retention schedules that were built into most DM systems.

Unfortunately, many DM systems were not fully designed with “real” retention schedules built in. Some DM products had three-digit limits on the retention schedule days, making realistic schedules infeasible. Where some thought was put into the design, most users were not trained to remember this aspect when identifying documents, exacerbating misclassification problems.

It is rare that all of the historic document types that a firm may have defined will be needed in a matter-centric world either from a practitioner’s standpoint for document identification or from an RM standpoint for document retention. A simple analysis of how these classifications are actually applied to documents may reveal the opportunity for migration to a more simplified structural scheme. Practical examples of this are discussed in more detail below.

RM retention schedules and whether documents are declared as records manually or automatically may have more impact on the document identification schemes and matter organizational structures than a historic document type classification.

In a firm where documents are all perfectly identified and all document types hypothetically could be preserved going forward, a limited number of structured folders can be created under each matter for the content types that are appropriate to the matter (*e.g.*, a pleading folder would not be used for an estate planning matter). Even so, having too many folder structures may still be a problem.

If, in a typical matter, 10 different types of documents are all that could be created, then 10 distinct folders may be acceptable. If four of those folders may never have a document in them, then one may want to reconsider this design. If, however, the presence of a particular type of document has critical RM implications, then a distinct folder may be justified, even if it only contains a handful of documents at most. (Consider a folder for documents with this RM status, rather than a specific document type that also has the specific RM status.)

All these factors should be kept in mind when developing the matter-centric design. The end result of an efficient design is that matters will be set up with the least number of structures necessary to meet the firm's practice, client relations and RM objectives.

### Static Storage Containers

"Folders" are the typical content storage containers in a matter-centric environment. Folders are immediately analogous to their paper-world counterpart — they can contain documents. Matter-centricity turns the tables on the "classic" DM world where profiles are filled out manually with metadata for each document saved to the system and security individually applied at the document level. Instead, where the document is stored should dictate what metadata values it has and what security is applied to it.

**Since these metadata and security values can be driven from the RM system or influenced by RM goals and principles, the two harmonious goals of DM and RM can be continuously and simultaneously maintained.**

In many respects, this is similar to the world that existed before DM systems were widely adopted when firms relied on elaborate folder or directory structures on network shares, some with intricately maintained security at the network operating system level.

When saving a new document or importing an e-mail message into the matter-centric structure, the metadata and security are automatically applied to the content. Typically a user need only provide a descriptive name for the document (and for e-mail, this is automatically extracted from the message subject, obviating the need for any manual profile data input). All other values that historically were entered manually (client, matter, etc.) are applied automatically.

This metadata and security "inheritance" can flow down from the top level of the matter, the workspace, where unique client and matter identification values are assigned and can be modified at lower levels

by specific folders for specific types of documents, such as "E-Mail for <Client> - <Matter>," "Drafts for <Client> - <Matter>," "Court Filings for <Client> - <Matter>," etc.

Since these metadata and security values can be driven from the RM system or influenced by RM goals and principles, the two harmonious goals of DM and RM can be continuously and simultaneously maintained. Conversely, the RM values associated with particular documents can be updated by advancing the documents from one folder to another within the workspace architecture as the document matures in RM status.

Note that we include the "unique identifiers" for the specific workspace (in this case the <Client> - <Matter> values) and in the name of every folder (and as will be shown below, in each stored search) within the workspace. Since the workspace name also includes these values, it may seem redundant to most users at first glance, and many firms will not include it. This is a mistake.

Since it's possible for users to browse the folders "horizontally" through a variety of means, the parent matter context (the workspace) is not always apparent. If there are tens of thousands of folders all named "E-Mail" in the system with no other unique identifiers, a user cannot effectively access or store content in any of these containers unless they switch to a different structural browsing mode. This is unnecessarily inefficient.

### Dynamic Storage Containers

Stored or predefined content searches can function as dynamic folders within the matter-centric architecture. These containers potentially will display different content to users based on their security rights, who they are or the time when the contents are viewed, when the search is executed, etc.

For example, a search folder within a workspace can be defined to display "My Documents for <Client> - <Matter>." When a particular user looks at the contents of that search folder, they will see all of the documents in the DM system that they created. The same search folder will display completely different contents to a different user. Similarly, the stored search can be limited to content edited within a certain number of days, such as "Recent E-Mail for <Client> - <Matter>." These dynamic features can enhance the functionality and performance of every matter workspace.

From an RM standpoint, content can be filtered in a stored search based on associated RM parameters accessible within the DM system. For example, stored searches can be added to every workspace for "Declared Records for <Client> - <Matter>" (or even "My Declared Records for <Client> - <Matter>"). In a large workspace, this can be an efficient way to filter only the relevant material that may be carried through to the RM system for ongoing management.

An added capability of current DM systems is that content actually can be stored to a search. As long as the search is set for individual values, content can be profiled by saving it to the search. Note that there are other limitations to this approach, but in terms of identifying existing content, clearly the boundary between non-dynamic folders as containers and searches will continue to blur as these environments evolve.

## Supramatter Structural Elements

Aside from the structures within a matter workspace, matter-centricity enables many ways to organize matters in “master” structures. These master structures can distribute and present matters to users as well as alert them to new matters (either as they are created or as the user bills time or is assigned responsibility to the matter).

In addition, a matter worklist can be set up to track matters on which a user is actively working. Automatically distributed or user-created shortcuts to matters also can be organized in “category” folder structures. Users can be subscribed automatically to definitive structures of matters organized by client, matter, department, practice area, office, responsible attorney, year opened or RM status.

These extended capabilities give users a way of looking at matters they never had before. It creates a virtual file cabinet and allows users to choose how they browse electronic case file workspaces. Multiple organizational schemes can be developed firmwide or department-by-department — even devised to satisfy the needs of specific attorneys. These different schemes can be created and updated automatically. Such “horizontal” browsing capability also allows users to compare new matters to existing ones and leverage existing work product for the new matter’s needs. This is a new and different way of enhancing one of DM’s most important goals.

RM can have an important impact on matter-centric organizational capability. Matters that are candidates for archiving can be presented to appropriate users for review. Matters that have been archived or otherwise processed according to RM retention schedules and operations can be removed from active matter structures and optionally moved to different organizational structures reserved for archived matters. These structures can be organized and maintained in a variety of different ways for different users or groups of users. For example, an RM administrator may have a view of the matters organized by storage location, series, box and archive date.

## Matter-Centric Intranets and Extranets

Web interfaces and portals to DM systems present additional capabilities for amassing matter-specific data from all sources within a firm’s client/matter “digital dashboard.” In addition to matter-centric structures, both above and below the matter workspace level, additional data can be displayed within a workspace showing current accounts receivable information, timekeeper entries, streaming news feeds regarding the client or matter, other Web pages associated with the client’s or matter’s related parties and, of course, RM information associated with the matter.

While current desktop interfaces may limit the concurrent display of RM and DM content, workspace-integrated RM Web components can provide a complete cradle-to-grave view of everything associated with the matter, from newly created documents to box locations for warehoused paper files.

## Migration to Matter-Centricity with RM in Mind

It has become clear that while RM is in its youth compared to the maturity of DM systems, RM mandates are essential to consider when crafting the matter-centric design. As mentioned above, historically

permissive flexibility or overly complex designs in document identification conventions may have led to differences without distinction, from both legal practice and RM standpoints. It’s the “garbage-in-garbage-out” lackadaisical misapplication of profile data.

Simple reports can be run directly against the source DM data to gauge how well (or poorly) metadata is applied, by whom and in what volumes. Similarly, the DM system can be monitored over time to see the types of searches that are actually run against the system to attempt to find content. This data can be augmented with honest, albeit anecdotal, user feedback about how they actually work with the system, whether it’s focusing on saving new content or finding existing content.

Opportunities for simplification of both the structural design of matter templates and identification of the needs of specific document types will become clearer by considering the following factors: (1) combining this data with RM retention schedules designed for fewer, more generic kinds of content than may have been defined within the DM system; and (2) the finer granularity of viewing content within a DM system that is naturally grouped by matter. Typically, document type changes can be executed with simple database commands to reassign and combine legacy document types into the new document types.

When implementing the new matter-centric architecture and creating a potentially vast number of matter-specific workspaces, document “provisioning” can be used to populate content into the workspace folders and correct metadata and security values for all versions of the document on-the-fly. Similarly, legacy structures can dissolve and disappear as their content is migrated to the new matter-centric structures. This will provide end users with visual cues about the migration progress as it proceeds.

To address issues when documents have been misclassified or it’s difficult to cleanly reassign legacy document types from one value to another, “To Be Filed Documents for <Client> - <Matter>” folders can be created within each workspace. These folders generically identify all content associated with a specific matter, regardless of more specific identifiers. Then, “cascading provisioning” can be used to further pigeonhole specific content into subsequently defined folders within the same workspace.

Any content that cannot be correctly identified or has generic, improperly used or legacy identifiers that may be phased out over time would remain in this generic “catch-all” container. Users with appropriate rights may, on an *ad hoc* basis, move content to a correct container (a more specific folder within the workspace) where the new metadata, security and RM values would be applied automatically.

## Two Sides of the Same Coin

Rather than impose a mismatched structure when previously none existed, moving to a matter-centric architecture is really an opportunity to reveal the true, relevant structures within an existing DM system. By harmonizing these structures with practice and RM requirements, a firm can synthesize a solution that completes the full circle of true content management.



by L. Keith Lipman, Esq. of Interwoven

## :: A Push for Electronic Content Management

Managing information has changed dramatically over the past several decades, and we are now entering an era defined by the management of information by lawyers. The factors driving this shift are varied. E-mail messages and electronic documents are overpowering paper documents. Industry experts report that the average lawyer receives 200 to 500 e-mail messages per day. The courts' and government agencies' adoption of electronic filings has resulted in a class of documents whose final form is a PDF or XML file. The final driver is that e-discovery has become a standard part of litigation. Law firms are subject to subpoenas and are parties in lawsuits like any other company. In some cases, the courts require that electronic documents be produced in "native" form and not on paper.

In many law firms, e-mail has broken down lawyers' current information management practice. The result is lawyers have additional challenges in providing excellent client services. The sheer volume of information can make them less effective, and they may struggle to defend themselves in litigation. The critical process breakdown is that documents and e-mail are no longer being properly classified, stored or protected, and the result is that a new strategy is needed to manage the firm's information. This new strategy will focus primarily on the need to manage electronic documents and e-mail.

### Efficient Electronic File Management

When a firm fails to manage all documents, their effective retention policy is "keep everything forever." The following scenario demonstrates the problem:

Firm A has a policy to destroy all matter files seven years after the matter closes. However, they are aware that much of the e-mail and other documents never reach the paper file. If the firm destroys its paper files and then gets sued, it will have destroyed only part of the

content and will have to produce the remaining electronic files. The firm may well have destroyed all of the content that supported its case while leaving the problematic e-mail.

With the adoption of electronic matter files and a policy that calls for the deletion of all unfiled e-mail within X days (*e.g.*, 30, 60, 90, 180), the firm now can successfully destroy all of the content around a matter.

When a lawsuit commences or is even threatened, custodians of relevant documents who are on notice of the litigation are required to preserve the document for the life of the litigation. This is called a litigation hold. The failure to do so can result in a party being penalized in court and losing the case.

Without electronic matter files, the only way to apply a litigation hold is by removing all of the relevant backup tapes from circulation. Many times, this means a complete set of tapes across all systems being removed. Backup tapes are costly and therefore applying a litigation hold can be an unexpected expense and may require significant manual effort to collect the tapes.

Once a firm has an electronic matter file system as well as a policy to destroy all unfiled e-mail within X days, the application of the litigation hold becomes very easy. The firm simply has to assure that they do not delete the relevant paper and electronic matter files.

### Getting It Back Under Control

The solution to this problem is to return to the concept of maintaining a matter file. This practice has been central to the practice of law. The challenge is to transition from traditional paper practices into an electronic world. To do so, there needs to be an electronic matter file that is complementary to the paper file.

In order to be successful in achieving adoption of an electronic matter file, a firm needs a system that is easy to work with for end users and manageable by the firm. The key success criteria for usability are:

**An electronic matter file.** A metaphor to store electronic documents and e-mail that is equivalent to the paper file is needed. The expandable file folder in the paper world usually represents the matter. This electronic expandable file folder should have information associated with it such as client-matter, practice area, security, etc. Contained within the electronic expandable file, there should be subfolders or inserts with similar names to the ones that would be found in the paper file.

**An ability to subscribe to matter files.** In the paper world, lawyers would store the physical files for the matters on which they are working near or in their office so the information is close at hand. No one would want to go to a central file room every time a file had to be reviewed. Similarly, end users need the ability to subscribe to or easily search for the electronic expandable files that represent the matters on which they're working. These functions enable them to arrange their electronic files in the same way they would manage their physical files.

**Filing rather than profiling.** People do not like to fill out profiles or data entry forms. It has been demonstrated across the industry that most documents are not correctly profiled in document management systems. However, research also shows that when users are asked to save a document to a folder, they will usually file the document correctly.

**Universal access to the matter file across applications.** The filing user interface should be available across applications and devices that are used. For most people in law firms, this means the filing interfaces should be available in e-mail, PDAs, Microsoft Office, Acrobat, multifunction devices and scanners.

**Portability.** When a lawyer needs to go to court, they simply take the physical file and put it in a trial bag. Similarly, a lawyer needs the ability to have the electronic expandable file accessible when they are offline, whether on a laptop or PDA.

The system for maintaining electronic matter files must also be manageable from the firm's perspective. The key element of manageability is the ability to integrate matter opening procedures, enable the matter to be worked on effectively and ultimately closed.

When a matter is opened, an automatic method is needed to create the appropriate electronic expandable file for the matter. The subfolders should be customized to fit the legal services being delivered. In the simplest terms, a litigation matter needs a "pleadings bible" while a corporate transaction does not. Ideally, the electronic matter file should be based off of a template similar to a template in Microsoft Word.

In many firms when a matter is opened, the empty paper file is delivered to the attorney who was working on the matter. Similarly, the electronic matter file should be pushed out to the people who needed to work on the matter.

In the physical records world when a matter is closed or goes into hibernation, or when a firm runs out of space, the firm sends the physical files to offsite storage. Electronic storage faces similar

limitations, and every system will have a maximum capacity. To keep the electronic matter file system functioning properly, the firm needs a way to archive matter files to cheaper storage.

## **Building Success and Taking the Next Steps**

The challenge in implementing any technology is how to measure success. Signs of an effective electronic matter implementation can be measured across several dimensions. These include both quantitative and subjective measures.

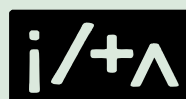
The quantitative measures focus on e-mail imported, the ratio of documents versus e-mail messages, and the ratio of billable versus nonbillable content. With e-mail, a firm should expect somewhere between 125 to 1,250 e-mail messages per month per lawyer to be imported into the system. The number of e-mail messages imported will be dependent on the practice areas. In some firms, the lawyers try to import only the last e-mail in a conversation. In others, all of the e-mail for the matter is imported. A simpler measure is the ratio of e-mail to other documents. In many firms, e-mail quickly becomes the dominant content type. Over time, e-mail comes to represent 50 to 90 percent of the repository. A final measure to look at is the percentage of documents and e-mail messages that are filed in billable versus nonbillable matters. The percentages that have been typical are approximately 80 percent billable versus 20 percent nonbillable.

With subjective measures, the primary focus is on the lawyers' utilization of the system. A sign of successful adoption is practice groups developing and standardizing how content should be filed. This fundamentally moves responsibility of the system from the IT department onto the practice group.

Once the electronic matter file has been adopted, the firm can take additional next steps: (1) adopting a process for imaging the paper documents; (2) creating a record retention policy; and (3) reducing the effort needed to place a litigation hold. Firms that elect to image paper documents will achieve additional benefits. Imaging enables the firm to save significant amounts of money by reducing the need for onsite storage space for paper files. It also reduces the need to bring paper files back from offsite storage, and enables lawyers to work matters across offices more easily.

## **A Smart Solution for Managing Electronic Content**

In today's environment, e-mail is the dominant form of communication, and new legal industry practices such as e-filings have created a need for efficient systems to manage all kinds of matter-related content. The ideal solution is one that can pair electronic records with the existing paper file. In adopting an electronic matter file system, a firm will enable its lawyers to be more effective, provide outstanding client service and protect themselves from potential litigation.



**International Legal  
Technology Association**



by Pat Archbold of Open Text Corporation

## :: Tackling Taxonomy

Remember the famed *I Love Lucy* episode where Lucy and Ethel are trying to wrap individual chocolates rapidly coming down a conveyor belt? The chocolates keep coming faster and faster until the women have to stuff their hats and mouths full of chocolates in an effort to hide their inability to keep up. Law firm information managers can certainly relate to this classic image. Faced with increasing volumes and sources of data, these IT managers might consider Lucy and Ethel lucky — at least the chocolates were only coming from one source and in one format.

The shift in spotlight from paper to electronic media has added both complexity and exponential volume to the information in law firms that must be captured, categorized, shared, stored, retrieved and retained, from physical files to electronic documents, e-mail, images, faxes, voice-mail, etc. To keep up, law firms have relied on numerous firm repositories, including systems for document management (DM), records management (RM), e-mail archival, litigation support, imaging and even personal e-mail inboxes.

Control of these silos of information is also spread throughout firm personnel including records managers, IT professionals, legal staff and attorneys. What's more, the information management goals among these parties historically have been different. IT specializes in electronic storage and recovery while the records department is most concerned with classification, retrieval and retention, and legal staff and attorneys focus on access.

There are numerous issues inherent in these disparate approaches to content management. For example:

If e-mail that constitutes records resides in an attorney's inbox, how will the firm ensure that these records are managed as part of the client file?

Are retention schedules being consistently applied to all records? What about e-mail? Can the firm ensure credibility of these records in court?

How would the firm respond to a subpoena to produce all information related to a matter from two years ago?

How many resources would it take to gather client files for outbound lateral hires?

### A United Approach

To address such issues, firms should strive for consistent management of all information throughout the matter life cycle, independent of repository or media type. This is often easier said than done, which is why it's been only in recent years that firms really have taken strides towards achieving this approach to managing client files.

A major driver of this change is risk management and compliance. Firms need to adhere to regulatory mandates (*e.g.*, *Sarbanes-Oxley*), industry best practices (*e.g.*, ABA guidelines) and firm-specific policies and procedures. Other motivating factors include the need to manage electronic records and e-mail as part of the client file; implementing auditable records retention schedules; managing records for litigation, mergers and acquisitions as well as lateral hires; enhanced productivity; knowledge sharing; space and offsite storage savings; and disposition of closed matter files.

The success of a matter-centric approach to content management is dependent on synergy among firm personnel, processes and technologies. Developing and utilizing consistent taxonomies or classification methods for managing client/matter information can be a uniting force. Because the majority of the client/matter file usually resides in DM and RM, aligning the naming conventions in these two key systems is a prudent starting point.

### Docketing Becomes More Intertwined

In the litigation context, docketing is also a significant source of documents that end up in records as well as the source of why documents are created in DM. For example, a pleading comes in and has to be calendared (docketing). Next, it has to be filed in the proper folder (RM), and then a response to the pleading has to be drafted (DM). The response will likely have dates associated with it (docketing), and a copy of the responsive document will also have to be filed (RM). Then, the other side will reply to the responsive pleading the firm drafted, and the cycle continues, creating a cascade of documents to be filed, responded to and calendared.

Every docket item that comes into a firm will eventually end up in a file (e.g., Pleadings: Volume 1). Having a litigation docketing system that integrates directly with the firm's RM gives users the ability to declare records automatically from the docketing system. This occurs when the docket is saved and requires no interaction from the end user. The record can be moved with a simple drag-and-drop into the appropriate folder when it comes time to file it away. This simple integration alone can save a firm anywhere from ten seconds to ten minutes per document.

Risk is also reduced by limiting the number of people involved and the overall number of keystrokes required to enter this critical data. Also, information is filed more quickly and easily, more accurately and is available immediately.

### **Different Strategies to Align DM/RM Taxonomy**

To get started, records and IT must work together to develop and implement a consistent methodology. Records managers need to know how electronic information is stored, backed up and retrieved. IT needs an understanding of what constitutes a record, as well as records retention and disposition policies. Both must be clear on firm goals, policies and procedures as well as end user preferences and adoption realities.

Firms of all sizes, practice specialties and geographies are in the planning stages or rollout of a matter-centric approach to file structures for optimal retrieval and retention. The following peer examples provide insight into firm goals, logic, execution and best practices:

#### **Foley & Lardner LLP**

##### ***Beth Chiaiese, National Director of Loss Prevention, CRM, MLIS***

We created a standard list of filing categories that we use in our RM as a way of organizing the index to the physical files for client/matters. The filing categories are intentionally very broad and none of them allow classification under a "general" or "other" category. Now that we are actively developing our electronic records management solution, we will replace the document types we currently use in our DM with RM categories. Our proposed solution is heavily dependent on integration between our DM and RM. We will use DM as a repository for all e-records and as a filing mechanism for e-mail. When a matter closes, we envision that custody of the records will shift to RM. This means that the e-records will become listed as part of the records index, become locked-down and subject to our retention schedule. Mapping the RM folder types to our DM document types will facilitate this data process.

To create RM filing categories, we visited each practice area to learn how lawyers, paraprofessionals and secretaries classify records in the file. In addition to avoiding "general" filing categories, we had a goal to keep the list to fewer than 100 filing categories and independent of area of law. Although we make all of the filing categories available to each area of practice, we have a default retention schedule of 10 years after the matter close date, with extensions of time based on certain areas of law. For example, estate planning files are scheduled for permanent retention. Once we map RM filing categories to DM document types, we will be able to ensure that all records, including the electronic records residing in DM, are managed by the retention schedules.

#### **Greenberg Traurig**

##### ***Diane Ibarra, Records Manager***

For optimal compliance, we are looking to tie everything — from electronic to paper to images — to a consistent client/matter structure and associated retention schedule. We plan to use an integrated technology platform that can help us do it all so that we don't have to go into different systems to locate matter-related information.

To guide us in policy setting, we have a team that includes records managers and lead records people from each of our 28 offices, our legal systems director, general counsel and risk management group. Our records department decides the document types, and we plan to manage retention according to those document types. We're fortunate to have a good records management/IT relationship, which can be a make-or-break situation in many firms.

#### **Pillsbury Winthrop Shaw Pitman LLP**

##### ***Tanya Garig, Conflicts, New Business and Firmwide Records Manager***

We have mirrored the file structure in both our RM and DM — the taxonomy is the same. Our end users have the same choices in both environments. Adoption directly correlates with training, which is why we have taken several approaches to ensure end user comfort with matter-centricity including one-on-one training, if necessary.

It's especially important to have a good structure for retrieving information. Discovery is expensive, so it's very important to know where to look. We frequently deal with lateral hires, and having a consistent file structure makes document status very clear and easy for us to transition information for the outbound attorney as well as to preserve the client relationship.

#### **Shook Hardy & Bacon L.L.P.**

##### ***Melissa Barker, Records Supervisor***

We're looking at information across the board. The goal is to have mirror image consistency between the DMS and RMS, to reduce paper and to make it easier to extract data and find documents. To achieve this matter-centric vision, we've taken a cohesive approach that brings teams together and builds relationships — IT, legal staff and records. This ensures we all understand shared issues and are working toward common goals. We've had educational workshops to talk about the IT platforms as well as to discuss naming conventions and folder-creation strategies. We encourage our end users to resist printing if a document is already in electronic format. The crown jewel is team work.

#### **Shook Hardy & Bacon L.L.P.**

##### ***Ann Schlomann, IT Project Manager***

Our firm's knowledge management committee analyzed how information is used and accessed throughout the firm. Many attorneys live in the Outlook three-pane view, and our DM is right there, so it's easy for them to store documents in client/matter folders and manage e-mail as well. We encourage matter-centric organization, the use of workspaces and electronic format. To rollout this approach, we started with small teams that had a lot of frequently accessed documents and users who were tech-friendly.

## **Holland & Hart LLP**

### ***Leatrice Garcia, Director of Records***

Our firm's goal is to implement best practices for the naming conventions of both physical and electronic records to optimize retrieval. All physical and electronic records stored in e-mail, RM, DM, extranets, etc., will follow these naming conventions and procedures related to client/matter files, attorneys' client-related as well as personal and administrative files. The firm's records retention policy will apply to the records based on these naming standards and procedures.

## **Arnall Golden Gregory LLP**

### ***Julie Colgan, Manager of Records Services***

Although we are still in the planning stages, our objective is to establish a records retention program that applies consistently to all content regardless of media, format or location. Taxonomy is a critical foundation. It will allow us to manage information across systems and bridge the physical/electronic gap. Right now we have DM and are planning to invest in RM in the future. However, in an effort to achieve some "good" while working toward the "great," I have been developing a taxonomy that can be employed in our existing environment as well as extend to RM later.

Because we have the luxury of creating our taxonomy from scratch (we don't currently have a formal file plan — even for paper), we are approaching it from the electronic perspective. More than 90 percent of the information that flows in and out of our firm begins, lives and dies in electronic format, so it is important that whatever approach we take, it accommodates the volume and work habits of the e-world. Two crucial issues to keep in mind are viability and sustainability. People have to be willing and able to use it, and management has to be willing and able to enforce it.

I expect to take a "big bucket" approach to facilitate effective use and buy-in. Retention will be applied to the "big bucket" level. As long as end users are able to classify content accurately into the buckets, any subclassification they might choose to include will not affect the firm's ability to manage the retention of the information. The buckets will be replicated across systems and will be used for managing paper as well.

The initial driver for creating a records retention program was cost savings; however, we have come to realize that the true value is in mitigating risk, increasing productivity and maximizing billable time.

## **Buchanan Ingersoll & Rooney PC**

### ***William Ainsworth, Firmwide Manager, Information and Records Center Services***

Our records and IT departments are working in partnership with our firm's risk management committee and general counsel to develop a Standard Naming and Organizing Convention (SNOC) that would meet needs across the board. Our attorneys are very busy and need to focus on billable time, so we stepped up to present ideas for helping to classify information in the easiest possible way. We needed a system that was both format and repository neutral.

We decided to build a process from the ground up rather than remodel existing approaches. The goal is to make the way that information is defined and described consistent firmwide (for both physical and electronic records), beginning with client/matter number. When we

reached out to end users and presented ideas for narrowing down categorization, we were met with typical process change resistance. However, that changed when we demonstrated that if you have 10 primary options, followed by 10 secondary options, followed by 10 tertiary options, it equals 1,000 possible combinations.

This effort, which is still underway, included an extensive review of existing terminology and categorizations as well as a wide-ranging review of organizational techniques used to streamline information categorization and a heavy dose of "outside the box" thinking. We've considered such categorization methods as those used by the botanist Linnaeus, as well as the U.S. Postal Service and bank check clearing houses for ideas to streamline profiling while increasing the accuracy of the effort. When people try to memorize facts as facts, it's difficult to recall. However, if end users can relate the system to a concept, then it's easier to memorize and use.

For records, we are considering compartmentalizing into three repositories with retention segregated based on client information, administrative information and attorney work in process. This will help us to easily segment the files if a client or attorney leaves the firm.

The key is the underlying process. If the process doesn't work, the software will only automate the mess.

## **Best Practices for Enterprise-Wide Classification**

Critical to the success of any matter-centric system development process are a number of best practices:

**Form a cross-functional team.** A uniform approach requires representatives from various areas of the firm working together. In addition to IT and records, consider involving your firm's general counsel, CIO, risk management partner and managing partner. To help ensure adoption, attorneys and legal staff should also be included in the process prior to final rollout. Or, if your firm has an existing risk management or knowledge management committee, be sure to involve them in the development process as well.

**Articulate goals and objectives clearly.** Whether it be for risk management and compliance, improving retrieval, implementing retention or going paperless, be sure that all involved are clear about the firm's intentions.

**Set structured policies and procedures.** Review your firm's existing practices in light of the set goals and cross-reference against external mandates and industry best practices. Think through the logic and set standards that best support your firm's operations. Will retention be set at the matter level? The document level? Be sure to get management support for any changes.

**Perform a tech check.** Review your firm's systems for features and functionality to support your information management goals. Integrated DM/RM systems make it easy for all involved. Look for drag-and-drop functionality in matter-centric folders and features such as global search. For optimal firm protection, keep end users out of the records declaration process through "silent declaration" for automatically applying retention rules to closed matter files.

**Keep it simple.** Use consistent taxonomies for folders and document types regardless of system or media. Make the choices manageable to help ensure usability.

**Provide training and communication.** Make sure the firm's goals, policies and procedures are clearly communicated to end users and that thorough training is provided. Keep in mind that attorneys who are more comfortable with a paper-based world may require additional training.

**Audit and enforce.** Make sure that records retention processes can be audited and policies enforced.

Incorporating these suggestions and strategies into a unified approach to handling client information throughout the matter life cycle will help reduce risk exposure, strengthen competitive edge, improve productivity and increase client responsiveness and satisfaction.

by Meg Block, Diane K. Carlisle and Peter H. Buck  
of Baker Robbins & Company



## :: Go with the Workflow

More than ever, lawyers are front-and-center in the information life cycle. Most lawyers work digitally, relying on e-mail and accessing work product and research materials via search engines. While technology speeds the creation of new documents and facilitates internal and external communication, there are inherent risks. A comprehensive strategy focused on workflow can mitigate the risks of relying upon disparate technologies.

### A Matter of Survival

In studying how lawyers and law firms can keep up with the demands of a digital world, it's clear the solution lies in a pragmatic, continuously updated framework of processes and technology built around firms' needs for information storage, risk management and compliance with legal requirements.

**Storage.** Information storage supports tactical day-to-day operations, through technology applications, consistent indexing rules and backup strategies.

**Risk Management.** The focus is on the internal policies and procedures needed to control the information life cycle and mitigate

risk. Components can include a records management policy, records retention schedule, periodic audits and electronic matter spaces.

**Compliance.** Understanding and managing the legal and regulatory requirements that govern operations is critical to the overall framework. These requirements address the preservation and production of official records if required for litigation or government investigation.

Three characteristics are critical in implementing this framework: (1) natural, easy-to-follow workflows that reflect normal lawyer activities on a day-to-day basis; (2) technology that supports those defined workflows; and (3) maintenance procedures that manage and preserve the business record.

### Technologies Are Rapidly Consolidating

Unfortunately, there is no silver-bullet technology that addresses the full digital information life cycle. Rather, there are specialized vendors whose companies and applications are being acquired by larger entities to provide the necessarily comprehensive control for classification, preservation and long-term access to business records. Consolidation is moving quickly:

November 2002: IBM acquires Tarian Software (provider of e-records management software)

December 2002: Documentum (enterprise content management vendor) acquires TrueArc Corporation (provider of records management software)

March 2003: Hummingbird LTD (developer of enterprise information management systems) acquires LegalKEY Technologies (provider of legal practice support applications)

February 2004: Zantaz (vendor of compliance technology and electronic discovery solutions) acquires e-mail archiving vendor, Educom TS Inc.

August 2004: Interwoven (enterprise content management vendor) acquires assets of Software Intelligence, Inc. (records management vendor)

August 2004: Veritas (vendor of storage and data protection services) acquires e-mail archive vendor KVault Software (KVS)

May 2006: Symphony Technology Group (a strategic holding company) bids to acquire Hummingbird LTD

July 2006: Rival enterprise content management vendor Open Text bids to acquire Hummingbird LTD.

August 2006: IBM acquires FileNet (data and content management software company)

September 2006: Open Text acquires Hummingbird LTD

Though these companies are quickly consolidating, we must still deal with a series of discrete applications — e-mail application, e-mail archiving, document management, records management and search technologies. Coordination of these applications to achieve comprehensive information management is a matter of survival. While these applications have been integrated commercially with varying levels of success, automated workflow can exploit relevant integration points, bolstering that success for an organization.

## To encourage adoption, classification and declaration must be accomplished in a single, natural and unambiguous step.

### Mastering Associated Workflows

**File Creation.** Management of the digital record life cycle begins at new business intake. When opening a new client-matter, a standard set of virtual folders is created in the document management system, and a parallel set of physical folders is created in the records management systems. These predefined folders are based on the area of law associated with the matter.

Because digital management systems provide multiple ways to filter, sort and browse documents, virtual folder structures can be simpler than the physical folder structures required for records management. Virtual folders are also more process-oriented: Physical “Drafts” folders can be replaced by a “Work-in-Progress” classification; an

“Executed Documents” folder can house PDFs of the signed originals. Traditional records folder structures give way to new electronic folder structures providing far greater flexibility in filtering, searching and browsing the information. Examples include:

An “E-Mail/Correspondence” folder is a simple way for lawyers to re-establish their beloved “Chron” file. The e-mail message provides the context and date stamp for the attachment. This folder can be a common repository for faxes, voice mail and images of hard copy materials delivered by messenger, the U.S. Postal Service or FedEx.

A “To Be Filed” folder can be used by lawyers who want others to annotate (*e.g.*, the Subject or Document Description) or manipulate (*e.g.*, separately file the e-mail message and attachment) matter-related materials.

**File Access.** To ensure quick and easy access to the lawyer’s relevant folders and to prevent a confusing array of folders in the document and records management systems, access to the folders should be controlled via “push” and “pull” strategies. For example: At the opening of a matter, virtual folders are “pushed” to the online displays of matter billing, responsible and assigned lawyers. A link to the matter workspace is sent to all users via a new business report; lawyers and legal staff who are not officially associated with the matter can “pull” the link to their online display. As lawyers bill time to a matter or save a document to a matter, the matter workspace is “pushed” to their online displays.

**Classification and Declaration.** The real advantage of digital records management is that lawyers can declare and classify their business-related materials via simple and natural workflows and be more enthusiastic about doing so because of the clear benefit of long-term, easy access to such materials.

To encourage adoption, classification and declaration must be accomplished in a single, natural and unambiguous step. Fortunately, with the convergence of document and records management through matter-centric computing, it’s as simple as dragging and dropping material into a folder where it is automatically classified (profiled), made accessible to the matter team and declared as a record. The folder is then governed by the firm’s established retention rules.

**E-Mail Maintenance.** E-mail is the 800-pound gorilla in digital records management. Some law firms try various means to enforce the classification and declaration of materials for filing in virtual folders within a specified period of time. E-mail messages that are not dragged into a virtual client-matter folder on a timely basis may be purged from lawyers’ inboxes, sent items and deleted items. The premise of this model is that the law firm has the right to require that client-matter communications be classified within a reasonable period of time and that those materials not classified are being retained for convenience. In records management, convenience materials have no evidentiary value and can be purged.

E-mail folders, however, are still the archive of choice for much more than matter-related material. Lawyers also need places to file personal, nonclient-matter e-mail messages and can do so by continuing to create personal folders in the e-mail tree. To keep the

size of the e-mail box manageable, law firms can transfer these personal materials to e-mail archives. This transfer keeps the materials private, accessible and centrally protected.

**File Retention and Disposition.** When lawyers' workflow moves or copies digital materials into matter-centric folders, e-mail, document management and records management are unified. The firm's retention schedule can be constantly applied in the background via the folder properties. As with physical records management, retention periods are tracked by the integrated records management system and triggered by the closing of the matter or the execution of a transactional agreement. When the retention period has run, lawyers are presented with the lists of physical and digital files for which they need to approve destruction.

## The Converging Electronic Landscape

There are a number of specialized information management applications available. As these products evolve to meet the silo requirements of the digital information life cycle, there will be a confluence of features. In the interim, integration teams need to determine what product to use based on a primary set of user needs. If e-mail management is the most urgent issue, it's likely that the technology solution needs to be built around e-mail systems and e-mail archiving technology. If the firm prefers to focus on indexing and accessing materials, they will gravitate toward a document management system.

To offer a clearer picture of where electronic-file silos may or may not converge, let's look at examples of how they are defined, key characteristics, functionality and basis for retention:

### E-Mail

*Definition:* Personal archive of e-mail communications and attachments

*Key Characteristics:* Personal access and control

*Functionality:* Based on personal requirements

*Retention:* Without firm limits, forever

### E-Mail Archive

*Definition:* Central archive of e-mail communications and attachments

*Key Characteristics:* Central storage management

*Functionality:* Based on central storage and personal requirements

*Retention:* Based on last access date and storage availability

### Document Management

*Definition:* Central archive of work in progress

*Key Characteristics:* Collective access and reusability

*Functionality:* Focused on creation, use and reuse of content

*Retention:* Based on potential future need

### Records Management

*Definition:* Central archive of containers to organize and store official records. Management based on legal, operational and historical needs

*Key Characteristics:* Record immutability and access via intermediaries

*Functionality:* Based on preservation, retrieval and disposition of records during life cycle stages

*Retention:* Based on legal, fiscal, operational regulations and law; focus is when a record can be destroyed

### Knowledge Management

*Definition:* Central archive of precedent

*Key Characteristics:* Collective, long-term access

*Functionality:* Based on search access and content presentation

*Retention:* Based on content

## Matter Workspaces Plus Workflow Provide a Solution

While other electronic file management applications have gained a foothold in the arena, document management has become the *de facto* repository for digital records. The basis for this has been the introduction of a natural, matter-centric user interface workflow that sits within the e-mail client. Document management offers integrated functionality including:

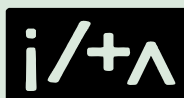
A paradigm that is natural to lawyers, namely dragging and dropping business records into folders

Collective, predefined folders that enable the automatic profiling of metadata, identification of duplicates, application of security and assignment of retention

Flexible filtering and sorting capabilities so records and information are easy to locate

Technology that is capable of storing records for the long-term retention required to meet legal and regulatory requirements

Currently, there are a vast number of products — quickly consolidating — that will eventually offer comprehensive solutions that bring the best aspects of workflow, document management and records management together. In the meantime, thoughtful and deliberate integration of existing applications will provide workable solutions.



**International Legal  
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