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Profiting from Document Assembly

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>d. Should every law firm, regardless of size, automate its
>document assembly systems? Why or why not? What benefit
>does document assembly have on the bottom line?

Let's play a word association game. I will say a word and you tell me the first word that comes to your mind. Ok? Here goes: "HotDocs." You say: "Trusts and Estates." Another word: "Document Assembly." You say: "Court Forms."

When you ask a lawyer what legal documents are prime candidates for automation, they will invariably say, estate planning documents or court forms. Apart from the advertising campaigns of the leading vendors of document assembly software (which stress such documents), there is a simple reason for this. Such documents are viewed as high volume, low profit margin documents. In some offices, estate planning documents are even loss-leaders, done as favors for corporate clients to retain more lucrative commercial business. And court forms are often viewed as paralegal work, where document assembly functions serve as a form of minimum quality control.

R.O.I. FOR HIGH VOLUME/LOW PROFIT MARGIN DOCUMENTS

With these types of documents, document assembly captures revenue by making existing employees more productive and minimizing time spent on marginally profitable activities. The return on investment ("ROI") in these high volume, low profit margin documents, will likely cover the costs spent in purchasing the software and create the template. Only with high volumes, however, will such investments be cost-justified.

There are several other practice areas where similar documents can be found that would benefit from template automation. To select such documents, the firm should evaluate their document flow and determine both the number of similar documents created each month, as well as the average time spent generating such documents.

In assessing the "generation time", you should include time spent on negotiation and redrafting, as well as original mark-up and word-processing. Examine and assess the full life-cycle of each document. This is because expert drafting systems save time both in the creation of the "first draft" as well as reducing the number of changes between the "first draft" and the "final draft".

In assessing the "number of similar documents", similarity should be viewed loosely. Some documents, such as bankruptcy forms are very specific and need to be viewed individually. Other documents, such as court notices, are more generic and should be aggregated. The power of document assembly software lies in the ability to merge several documents into single template which is easier to maintain and update. I can take 20 forms of debt instrument and merge them into a single template that addresses every type of debt instrument imaginable, including some combinations which are not imaginable.

ASSESSING PROFIT MARGIN

Finally, you should assess the profit margin on each category of documents. In a corporation, this is an easy job. When you are paying employees a salary or bringing work in-house, the formula is simple: (hours saved from automation * hourly salary) or (outside counsel legal fees saved) over a designated period versus cost of automation. The cost of automation includes the costs of the software, employee development time and any outside consulting fees. As a rule of thumb, you should get a complete return on your investment within six months of completion of the automation project.

In a law firm, assessing profit margin is a matter of intangibles. Look at the transaction fee for legal work. The Greeks would look at the entrails of a sacrificial goat for auspices before embarking on any major expedition. Likewise, before embarking on any major document automation project, a firm should look at their billing records. Here are four signs that document automation is warranted:

(1) If your average transaction fee for legal work is greater than that of your competing law firms and you are thereby loosing billable work to other firms, document automation can lower your cost-basis for such work allowing you to retain and even attract new work.

(2) If you are consistently loosing money on a certain type of work, having to write off billable hours, look at whether those documents can be effectively automated. Automation will reduce billable hours on such transactions allowing you to recover your costs.

(3) If you are consistently exceeding budgets set by clients for particular matters, look at whether automation of some of the underlying documents can reduce internal costs to bring them within the budget.

(4) If you have adopted task-based billing or fixed fees for transactions, look at all documents to see if any of them can be automated. If possible, try to automate the entire transaction. The multiple ROI in such situations can be enormous.

My bias is to move entirely to task-based billing and fixed transaction fees. By so doing, a law firm can set its fees at a discount off their average transaction fee prior to automation. Combined with maximum document automation, this could make existing staff far more productive and increase overall quality of work. At the same time, corporations and individuals like certain fees and are more likely to steer business to a firm with such a fee structure, assuming the quality of the work is sufficient. With document automation decreasing drafting time often by a factor of 100X, time can be spent (1) refining the output documents, (2) caring for the clients and (3) making the underlying templates more flexible.

R.O.I. FOR LOW VOLUME/HIGH PROFIT MARGIN DOCUMENTS

Often overlooked in the discussion of document automation are what I call low volume/high profit margin documents. Many real estate, banking, merger and acquisition, and corporate documents fall into such categories. These documents form the bread and butter of many law firm practices. Specialists in these departments repeatedly pull up prior deal documents, carefully mark them up, and release them to their clients for large sums of money.

These documents are characterized by their length and complexity. They often run over 100 pages with multiple exhibits and addenda. They involve families of inter-related documents and schedules. They may draw on client specific data to be pulled from a matter management system or even a deal-specific database. The documents often contain arcane language that may be understood only by a specialist. Moreover, each transaction appears to defy categorization ... each deal is "unique".

Partners and associates spend hours mulling over these documents, carefully crafting each paragraph, checking all the internal cross-references, updating dates and figures. Hundreds of hours of word-processing time may be spent on the numerous mark-ups of the documents, followed by hours of proofing these changes.

These documents are exceedingly profitable. But they are also ripe for automation. When automated, the time for production of quality first drafts .... even near final drafts, can be reduced by a factor of 100. Document automation can reduce 100 hours of attorney/paralegal/word processor time to less than 1 hour of an attorney's time spent gathering and in-putting deal specific data. Don't even mention all the typos and errors avoided in the process.

Huh!! You may ask, "Can you really automate such complex documents?". The simple answer is: "I have." When you evaluate transactional documents, patterns emerge. Certain text turns out to be boilerplate. Other alternative text is governed by clear rules. Any rules in the head of the leading attorney on the transaction can be captured as options in the text. With sufficient text preparation and time spent on template design, most of these rules can be anticipated and incorporated in the templates. I have done this with municipal bond offering, mortgage-backed securities, currency swaps, opinion letters, bank commitment letters, and a range of other complex transactional documents.

The important question before embarking on automation of low volume/high profit margin documents is not "Can I do it?" but rather can I sell it to my clients in the form of "fixed transaction fees" for legal work or "minimum transaction fees". Once your client commits to such an arrangement, any time spent automating such documents will result in massive multiples for the return on investment. You may even be able to bill the client for the cost of the template creation.

CLOSING THOUGHTS

Let's play the word association game again. I say, "Complex Deals." You say "Transaction-based Billing." I say "Fixed Fees." You say "Document Assembly."

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