

Implications

Results of the Seize the Future Conference Implications Discussion

The Seize the Future; New Strategies Conference co-sponsored by the Law Practice Management Section of the ABA and Lotus Development Corporation addressed the future of the legal profession. Participants included leaders from the judiciary, law firms, law schools, consultants, and other vendors to the profession. One of the exercises completed by leaders in the profession attending was to create a set of implications of a current trend. This article addresses those implications. As Peter Drucker, a noted lecturer and writer in the field of management put it: "One cannot predict the future, only seek to understand the implications of trends we can see today."

This article outlines the significant implications of trends that can be clearly seen in today's competitive environment for providing solutions to client problems. Although the legal profession is one component of the solution to client problems, others will become involved. Therefore, among the many options reviewed by the leaders of the Seize the Future Conference, the first one started with was the demand by clients for a multi-disciplined approach to the solution of their problems.

THE IMPLICATIONS WHEEL

The wheel has several characteristics. Developed by Joel Barker of Infinity Limited, the wheel starts with a trend at the center and builds outward to the first, second, third and other levels of implications from the trend. First, it is used to explore the possible. It is a high tolerance tool and its success is in the ability to start outside the current paradigm - the way

lawyers currently think of the business they are in. Second, it is a multiple right answer tool. In many ways, there is more than one way of answering the question of future implications. Third, it is a decision-enhancing tool. The wheel allows the user to have a much deeper and fuller insight into the implications the user may encounter.

To make the Wheel work for the leaders at the Conference, we asked the following questions: What things might happen or occur if this trend continues? What might occur if this implication happens to a client of a law firm? Additional information may be found on the Seize the Future; New Strategies website: www.futurelaw.com

THE CENTER OF THE WHEEL

Clients will become more transnational and be affected by transnational commerce.

Clients will also become

more and more powerful buyers, they will define their problems in a more holistic way. They will not longer describe their problems as a legal problem but as a general problem of which the legal approach is only a part of the answer. Their problems must be addressed from a multi-disciplinary way. An asset acquisition of a plant site may require a team of lawyers, environmental consultants, accountants and a myriad of other specialist to deal with the issues in a coordinated way. Responding to the client's need will have be multi-discipline.

Think of a wheel with its hub the Multi-Disciplined Practice (MDP). Now think of spokes running out to the first level implications. The following section will outline the first level implications. The next sections will take each of the first level implications and go out to second and third level implications.

FIRST LEVEL IMPLICATIONS

1. Clients will hire MDPs on a project basis. Selection of providers will depend on who is in the best position to solve the problem within the constraints of price versus benefits. Personal relationships will not provide automatic access to client work. Personal relationships will only provide the credibility and access to demonstrate multi-disciplined capabilities. These multi-disciplined approaches may be from one firm or from a "virtual" firm. A virtual firm is one that operates as one firm on a project but is composed of many, independent providers wired together for coordination of the project.

2. There is a huge opportunity to use tools for collaboration such as Lotus Notes. As the need for sharing of information on project status and documents become essential, tools for information sharing (groupware) will become essential. At this time the most effective groupware is Lotus Notes with its replication system for databases.

3. Governments will see the need to regulate the large, one-entity multi-disciplined practices. As these MDP's gain power in dealing with clients, there will be complaints to regulate the MDP entities to enable more competition.

4. Litigators will split away to get more trial experience and be able to appear before the courts. As the MDP's mature with a wide range of services, trial

lawyers will seek an independence before the bar and will use MDP's as their litigation support and management resources.

5. Lawyers will no longer be the sole owners of Law Firms. As the need for capital grows to fund the investments in technology, training, common processes and the power to deal with potential clients; other sources of capital will be sought from the public or private investors. Ownership will be shared by non-lawyers.

6. Many smaller, virtual MDP's will compete effectively with the larger MDP entities. Through the use of networks, the web and information sharing technologies, niched entities will band together to offer a full range of services and geographical coverage.

7. Law schools see the need to expand their curriculum to meet the needs from MDP's. The expansion of the curriculum will call for law schools to incorporate the disciplines of graduate business and engineering schools with the specter of combining the schools under one dean. Why business schools? MDP's will require professionals to understand and use marketing, negotiation, and business knowledge skills. Why engineering schools? MDP professionals will be required to understand and build processes to improve efficiency and manage projects.

8. Non-MDP practitioners will

become diagnosticians and gatekeepers for the MDP's. Those close to the strategic direction of their clients will become counselors and general counsel. They will become the gatekeepers in directing work to MDP's which can solve specific problems for the client. As an example, consider the medical general practitioner who has become the gatekeeper for specialist groups.

9. Microsoft funds the first MDP to stand up to governmental law suits. A large enough client can gather and manage the various specialists required to deal with their issues. Given the internal capabilities of a company like MicroSoft to manage the development of new products, that same skills base can be used to manage a group of outside providers.

10. Fees for services are no longer based on hourly billing. Clients will become more sophisticated in evaluating the risk or rewards of an investment in outside professional services. They will be looking for a predictable investment in outside services that will provide a benefit to the business.

11. General counsel has their power enhanced by controlling the relationship between the client and the MDP. As the professional in MDP's become more competitive, they will become more undifferentiated. General counsel along with their team of support people inside and outside the counsel's office

will become more powerful in selecting and funneling work to outside providers. As a corollary to this condition, corporate officers may push MDP's services to lawyers, formerly with the company, who are separate service providers. The selection of their former in-house lawyers will be based upon the perception of how they can respond to the company's needs.

12. Private entities/MDP's will dictate governmental solutions more often than public entities. Powerful MDP's will have the resources and the innovative capabilities to come up with solutions and approaches with which bureaucracies cannot compete with in formulating effective solutions.

13. Very large private businesses will partner with MDP's as a permanent out-source for solutions to ongoing business issues and problems. Rather than trying to maintain the breadth of experience in-house, companies would rely on such MDP's to maintain expertise and provide it on demand.

14. One-stop shopping will make it easier to choose a relationship with an outside provider. As MDP's broaden their areas of expertise, companies and clients will see these MDP's as a one-stop shop for solving problems and obtaining products that will solve problems, improve revenues and net income or take advantage of market

opportunities.

15. Solos and providers who are not associated with an MDP or a virtual MDP will focus on clients who cannot afford the fees of an MDP. Such clients will require the solos/providers to broaden their access to knowledge and solutions.

16. Lawyers will need substantial retraining in negotiations, project management and technology. Much of the training will have to come through graduate school but there will also be constant continuing education in the skills that will be responsive to the needs of clients needing multi-disciplined solutions.

SECOND AND THIRD TIER IMPLICATIONS

Each of these have been ranked by the participants as to their significance as negative or positive for the profession and ranked for the likelihood of occurrence. This article would get way too long if I tried to cover them so the reader should register for the next conference to see the results. The following are the sub-topic implications that came out of the above 16 first tier implications.

As the Chair of the last conference, I ask you to take the following bullets and translate them into your current situation. The comments are mere bullets and you'll find that many of items created by one team working on one first tier implication may have been

duplicated by another team working on another first tier implications.

1. Clients will hire MDPs on a project basis. This will create the following implications. First, MDP personnel will move back and forth between client and MDP offices. This will make it difficult to maintain a strong vision and culture within the MDP. The back office and infrastructure of the MDP must be very strong to support the wide range of expertise and products provided. There will be much heavier marketing and investment prior to being able to charge time. The provider must be able to demonstrate value added for the fees charged which will drive changes in how professionals are measured and evaluated. Efficiency, not effort, will be the measure of value added and contribution to the firm. To get the efficiency, lawyers will have to managed their specialized talent more effectively through sophisticated project management systems. Some lawyers will be left behind.

2. Tools developed to improve collaboration. Implications include an increase sophistication in decision making and coordination. New leaders will surface who can manage resources as opposed to just having substantive knowledge. A broader geographical coverage and diversity can be obtained through technology. The diversity may cause the MDP to

lose vision and focus. The result is loss in focus on core competencies and increases in stress of the professionals.

3. Governments will see the need to regulate the large, one-entity multi-disciplined practices. Some MDP's will be offenders of fair practices and legislation will develop to protect the consumer.

Governmental regulators will get involved and replace the bar associations' self-regulation. Due to publicity, MDP's and law firms will have to demonstrate more accountability to clients.

4. Litigators will split away to get more trial experience and be able to appear before the courts. MDP's will become problem solvers with less independence. Long-term relationships with MDP's will increase as short-term needs for trial lawyers will surface from time to time. MDP's will be brought into problems sooner and will manage the litigation processes - selecting specific trial lawyers for specific needs. Litigation processes will be mapped to insert trial lawyers at the appropriate times. In order to limit overhead, trial-niched firms will develop.

5. Lawyers will no longer be the sole owners of law firms. New sources of capital will be required. Combinations and mergers will occur to build the critical mass for capital. New sources of capital will be sought from outside the legal industry bringing in new owners. New

career paths will be developed for lawyers and non-lawyer specialist in the firms to attract and retain an appropriate mix of expertise and talent. Outside owners will force lawyers to focus on their core competencies and products.

6. Many smaller, virtual MDP's will compete effectively with the larger MDP entities. Many lawyers and specialists will want to practice outside of the large MDP organizations in smaller units bound together by technology and a virtual relationship. Specialists and experts will be attracted to the virtual MDP's as a career path. There will be increasing advertising to establish an image for the virtual MDP's.

7. Law schools see the need to expand their curriculum to meet the needs from MDP's. The structure of law schools must expand to take in other disciplines. There will be less lectures and more interactive work groups. The traditional law school will be merged into a multi-disciplined graduate school. Professors will include specialist who are not grounded in substantive legal knowledge but in other, more client responsive expertise. The value of a legal education will rise while the number of people entering law schools will decrease.

8. Non-MDP practitioners will become diagnosticians and gatekeepers for the MDP's. There will be fewer lawyers needed and practicing lawyer image and

income could improve. More non-lawyer specialist will do the work formerly performed by only lawyers. The diagnosticians may not necessarily be lawyers. Ethical rules will be changed to extend confidentiality and privilege rules to non-lawyers. Ethics rules will be changed to allow fee sharing between lawyers and non-lawyers.

9. MicroSoft funds the first MDP to stand up to governmental law suits. The corporations like MicroSoft will be large enough and be able to create enough capital and technological support to sustain a MDP in support of it's own needs.

10. Fees for services are no longer based on hourly billing. Project pricing will occur to require lawyers in MDP's to be effective and efficient. Lawyers will have to use sophisticated project management tools to control their investment of time and meet the pricing and performance needs of clients. As lawyers performance and pricing becomes more predictable, their image will improve.

11. General counsel has their power enhanced in controlling the relationship between the client and the MDP. Outside lawyers will lose influence in the market as the clients gain power and become more sophisticated in setting performance standards. The career path of general counsel with the skill to manage MDP's

will move them toward CEO positions.

12. Private entities/MDP's will dictate governmental solutions more often than public entities. Governmental agencies are likely to become larger clients of MDP's and rely more on their recommendations. This could lead to less democratic government and loss of public confidence. Certain governmental agencies may be rendered obsolete or privatization may occur as MDP's move into a position to run them.

13. Very large private businesses will partner with MDP's as permanent out-source solutions to ongoing business issues and problems. The MDP's may be used to aggressively seek out global opportunities based upon the availability of expertise and experience of the MDP's. Current ethical rules must to allow non-lawyer specialist to participate in the revenues generated by the MDP's. Less formal business ethics may replace the more formal ethics of the Bar. Lawyers will have to be more conscientious because they will have to share the risk and will not longer be able to set fees based upon effort and cost-plus pricing.

14. One-stop shopping will make it easier to choose a relationship with an outside provider. MDP's will have to provide a coordinated team approach with supporting training and infrastructure.

Processes will have to be refined and standardized to insure efficient performance. Clients will receive better service because of consistent delivery, lower cycle times and predictability in fees. Those firms not part of an MDP entity will have to demonstrate their virtual MDP can perform as or more effectively and efficiently than the large MDP's. New conflicts will develop and conflict of interest rules will have to change. Some clients will forced into single relationships which will open up opportunities for others.

15. Solos and providers who are not associated with an MDP or a virtual MDP will focus on clients who cannot afford the fees of an MDP. Such providers will forced into providing commodity services which will produce lower incomes unless such firms are very highly leveraged. MDP's may capture the rich projects. Solos and non-MDP lawyers may leave the profession reducing the number of lawyers competing for business. The poor may receive a lower level or no service or non-lawyer specialist may provide a higher quality of service to the poor. Many solos and non-MDP lawyers will be forced into virtual networks to serve their clients.

16. Lawyers will need substantial retraining in negotiations, project management and technology. Many lawyers will resist the

training or making the investment necessary to compete with the MDP's. These lawyers will go out of business. Lawyers, regardless of affiliation will intensify their use of technology to level the playing field. There will be a much greater investment in technology and training producing a growth in specialized providers of project management support, negotiation training, team building and other training critical to meeting the needs of clients.

SUMMARY

This is only a summary and can only touch the tip of the iceberg of the discussions of implications. Once done with the implications the participants went on to identify how to accelerate change in each of their organizations and consistencies. With this article, the leaders participating in the first Seize the Future Conference challenge the reader to look at the implications on your own organizations and start the change process before time runs out for you to do anything about it.

Should you have any questions, the members of the Seize the Future Conference Committee will be happy to answer any questions.