

Do You Know What Companies Really Want?

What You Don't Know Can Kill You

By Allan Colman

"Law firms are dumb about what companies really want. I am shocked at how cocky and not-in-tune they are."

In the 20 years I have worked with and for in-house counsel and CEOs, this recent statement to me by a Fortune 100 senior in-house counsel is the strongest yet. Over the years I've compiled a number of such statements, which, if more moderate in tone, are equally serious in intent. Many of them zero in with a great deal of specificity on buyers' discontent and, as such, are particularly helpful, if disconcerting.

For example, from the head of litigation at another Fortune 100 company: "I'm concerned about the arrogance of my former firm assuming they would land the majority of work now that I have gone in-house."

Or this from another buyer: "Find me a firm skilled in litigation public relations. None of ours can help."

Two different concerns, but the same theme pervades. Buyers' attitudes are unsuspected by law firms. Buyers' needs are unexplored by law firms.

These quotes span a period in which:

- GCs' positions have become more tenuous;

- Shareholder pressures on corporate value have increased;
- New product or service development costs have grown;
- Boards of Directors expectations of in-house counsel and their roles in "preventive law" present even greater challenges;
- SOX has created liability for GC's that many do not want to bear, or simply can not bear; and
- CEOs are breathing down their necks.

No wonder, then, that law firms that enter pitch or proposal meetings without being aware of "what keeps 'em up at night" may be easily categorized by in-house counsel as "dumb" or "arrogant." Recent surveys offer even more detailed maps of the minefields in which many law firms get trapped. In January 2005, an *Inside Counsel* survey indicated that 59% of responding General Counsel would soon be firing at least one of their outside law firms. If your firm is terminated, do you know why? Is it:

- Budget pressures?
- Consolidation of firms?
- Tightening of supervision and management of outside support?
- Desire for fresh strategies and new approaches?
- Turnover of counsel, either outside or inside or both?

Another study, this one conducted by the jury and trial consulting firm DecisionQuest, showed that GCs

expected a 20% yearly turnover in their own top in-house ranks. In light of that instability, how do you build long-term relationships that yield future business? Are today's decision-makers going to be there long enough to support your firm? Will non-lawyer executives be able to exert greater impact on the decision-making process? If so, which ones in particular? How did they attain this position of influence? What could you have done to get to know them earlier?

Do You Know?

Do you know the decision-makers' own strengths and weaknesses? Are they worried about losing their jobs or are they deeply entrenched? Maybe they're even being considered as CEO? In fact, back up a step: Do you know who they are in the first place? Beyond that, build a matrix of everything else you need to know. There is a marketing axiom that often appears in legal journals, marketing seminars for partners, sales training programs, etc., that says, "Get to know where they go, who they know, and what they read." Are your clients more likely to attend ABA meetings or their industry association conferences? Who are the people they trust and consult when looking for references for new or special counsel? Is their reading focused on professional journals, industry newsletters, or novels of the Old West?

Allan Colman is the principal of the Closers Group, a sales and business generation consulting firm serving the legal profession. He can be reached at acolman@closersgroup.com.

KEY QUESTIONS

Other polls and surveys of in-house counsel reveal that, during the selection process, greater or lesser emphasis may be placed on diversity, pro bono activity, and community service. Some companies heavily weigh these factors as they apply to competing law firms. Others may believe the activities of individual team members are more important.

Some buyers place equal weight on firm reputation and individual practice in selecting outside counsel. Some CEOs or Boards of Directors demand the best law firm to solve a problem without much concern about who the individual lawyer is. From what you can see, are they really looking to protect themselves with a safety buy, a top firm "brand" so that, if the engagement goes south, they can still say they made the reasonably smart move?

Well, do you know? Do you *want* to know? Do you know how to find out? Do you have a professional staff to assist and support your finding out? Will you make time to organize, pursue, and hopefully close opportunities if you do find out? Lawyers are excellent at talking, good at asking questions, and generally only so-so at listening. Yet it is the latter two skill sets that are the ultimate determinants of ongoing success. According to Kirkpatrick & Lockhart Nicholson Graham's "Top of Mind" survey of senior in-house counsel, conducted in the summer of 2005, "communicating effectively" and "enjoyable attorneys" are two of the top three attributes for outside counsel selection.

For any lawyer who wants to "communicate effectively" and "enjoyably," the 60/40 rule that served IBM so splendidly for decades still applies: Client talks 60% of the time, you talk 40%. Demonstrate the knowledge you have obtained by asking strategic questions and getting them to discuss operational and management challenges.

THE IBM SPIN METHOD

The IBM SPIN Method is also a client interaction technique of persistent value:

- S** — What's the Situation?
- P** — What are Problems?
- I** — Implication of problems?
- N** — Needs to solve and needs internally.

WHAT TO ASK

Now if you are finally ready to "ask," what do you ask? To be sure, your professional marketing staff can conduct searches for relevant recent litigation, real estate transactions, or whatever. They can conduct a media analysis to identify corporate problems, new product/service plans, reorganization proposals, community service activities, appointments of key executive and Board positions, etc. But then the key next step is to base what I call a "discussion of discovery" on the information that you have collected. It is the transition from talking to selling.

For starters, ask how the CEO and Board of Directors expect to be apprised of pending risks and prevention steps. Such questions can directly generate deliverables on your end if, for example, that CEO or Board has asked in-house counsel to provide a larger dose of prophylactic analysis of operational or business units.

If so, you've immediately found the critical sweet spot and possibly uncovered a future service area. At that point, you can discuss related strategies that you've successfully implemented for other clients. If your question about preventive law does not resonate, you simply move on to the next question rather than bog down trying to sell something the company doesn't want to buy.

If not preventive law, how is litigation currently being handled, anticipated, prevented? Does in-house counsel have an organized, functioning early case assessment system? Are their business and operational units covered in this system? How is enterprise risk management and intellectual property protection handled? Are they prepared for the arduous demands of e-discovery?

Do they need outside counsel to assist in litigation public relations or crisis management? (Remember the in-

house lawyer quoted above who specifically demanded this hard-to-find value-add.) Can you offer training programs in professional development for the legal department? Does your firm provide a shared technology system so you and clients communicate directly and easily? All these value-adds are really what being "enjoyable" lawyers, as the Kirkpatrick & Lockhart survey describes them, are all about.

But most important, remember the almost universal criterion for successful sales: How will they expect you to "communicate" with them? It's not just warm and fuzzy "relationship" stuff, but very specific communications preferences and practices. For example, how much of what you communicate in terms of reports, invoices, and recommendations will get passed directly to the CEO and Board of Directors? What is the best format to use? How often should they be sent?

The very fact that you are already concerned about these essential day-to-day considerations sends a very positive message about you at all stages of the selling process.

There's an old song that goes, "Do you want to dance and hold my hand? Please, please won't you understand? Oh baby, do you want to dance?"

Well, do you?

