

# Go Forth and Wikify!

**Abstract:** This Conference paper by Martin Farley gives an outline of four wikis in the legal sector and examines why they were established, how they operate and how successful they have been at achieving their objectives. It also includes a brief introduction to wikis, a list of examples of other possible uses within the legal sector and a broad overview of advantages, disadvantages and probable future developments. It aims to provide an idea of what is practically possible at the moment and where the potential of law wikis lies.

**Keywords:** wikis; legal profession; law librarians

## Introduction - law wikis in practice

### What is a wiki?

Put simply, a wiki is a website or webpage that users can amend. They can usually both create new content and delete old content. There is often also the facility to add comments and to set up notifications of changes via RSS.

Conceptually, a wiki can be compared to a group discussion. Whereas a static webpage is like a sound recording (you receive information, but don't interact) and a traditional blog is like attending a lecture (you might be able to ask questions at the end, but are still essentially the recipient of someone else's thoughts), a wiki is akin to sitting around a table with colleagues openly discussing the matter in hand. In determining whether a wiki is a useful tool for a particular matter, it is useful to bear this conceptual definition in mind.

### Wikis in the legal sector

So far wikis have been relatively slow to take off in the legal sector, compared with more technology-friendly areas, such as software development and even with other commercial organisations. This is partly due to continuing questions about the reliability and authority of the content that wikis contain, but is also a result of the generally risk-averse nature of the legal sector.

However, the use of wikis is now reaching critical mass. In the last 6–12 months there has been an explosion in the number of legal organisations setting up wikis or planning to utilise them.

## Four examples of law wikis

Below we will examine four examples of wikis in the legal sector and consider some of the challenges they have faced, attempt to judge their success and look at likely future trends for the use of such sites.

The four examples are: a small law firm (early adopter), an innovative individual (tracking legislation), a global law firm (adapting it for business uses) and a government agency (seeking to use a wiki to create authoritative processes).

### Small law firm: Early adopter


Heaney & Co is a small law firm based in Auckland, New Zealand. In 2003, one of the associates there, Paul Robertson, was given the task of setting up a system that would allow them to manage their know how. Obviously, being a small firm they had neither the people nor the resources to install a complex or time-consuming knowledge management system and so Paul instead downloaded wiki software free of charge and attached it to their internal IT systems. He then set about creating their "own version of Halsbury's" by producing know how and storing it on the wiki.

Over time they have been able to build up an extensive bank of knowhow, organised in a way that is easy to find, update, comment on and manage (see Figures 1 and 2).

The site is fairly basic in its structure and does not have the functionality that many websites or databases have, but it does perform its simple function very well.

It has been successful in terms of its overall use and cost-effectiveness, but it is difficult to get people to contribute. The wiki manager is still viewed as the owner of the information and users are reluctant to add to content.

## Damages And General Damages



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  - [Not in lieu of special damages](#)
  - [No award for the stress of litigation](#)
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  - [No award for damage not linked to breaches of duty, i.e. causation](#)
  - [No general damages unless special damages awarded?](#)
  - [No general damages to occupiers without legal interest in the land?](#)
  - [No general damages unless have evidence](#)
  - [You can get general damages in the WHRS](#)

Figure 1: Heaney & Co wiki – know how on damages

limitation. An attempt to run a separate claim for mental injury failed. See [the HC decision](#).

**No general damages to occupiers without legal interest in the land?**

The starting point is that only plaintiffs can claim. Hence a plaintiff cannot claim for illness affecting their children. See [Lacey v Davidson](#)

It is arguable that only a party having a legal interest in the land can bring a claim for general damages. This was considered in [Bronlund v TCDC](#). See also the comments on claims by [trusts](#).

Check this out further

See also the same issue as it arised when considering claims by beneficiaries or trustees of a [trust](#).

**No general damages unless have evidence**

I.e see [Bell v Hughes HC @ p37](#) and [ACC v Russell Russell](#) where there was insufficient evidence of generals and none were awarded.

**You can get general damages in the WHRS**

See [Waitakere CC v Smith](#) in the DC where Judge McElrea held that you could over our violent opposition.

Figure 2: Heaney & Co wiki – know how on damages

### Legislation tracker

Ukpatents.wikispaces.com was launched in 2006 by David Pearce of Nottingham law firm Eric Potter Clarkson. It contains annotated and consolidated UK patents legislation and rules and might well be the

first attempt to place an entire area of UK law on to a wiki.

The legislation is laid out as normal, but contains detailed annotations and comments as well as copies of all previous versions of a section/page.

As shown in Figure 4, each section of the Act is given a page of its own and can be edited, commented upon

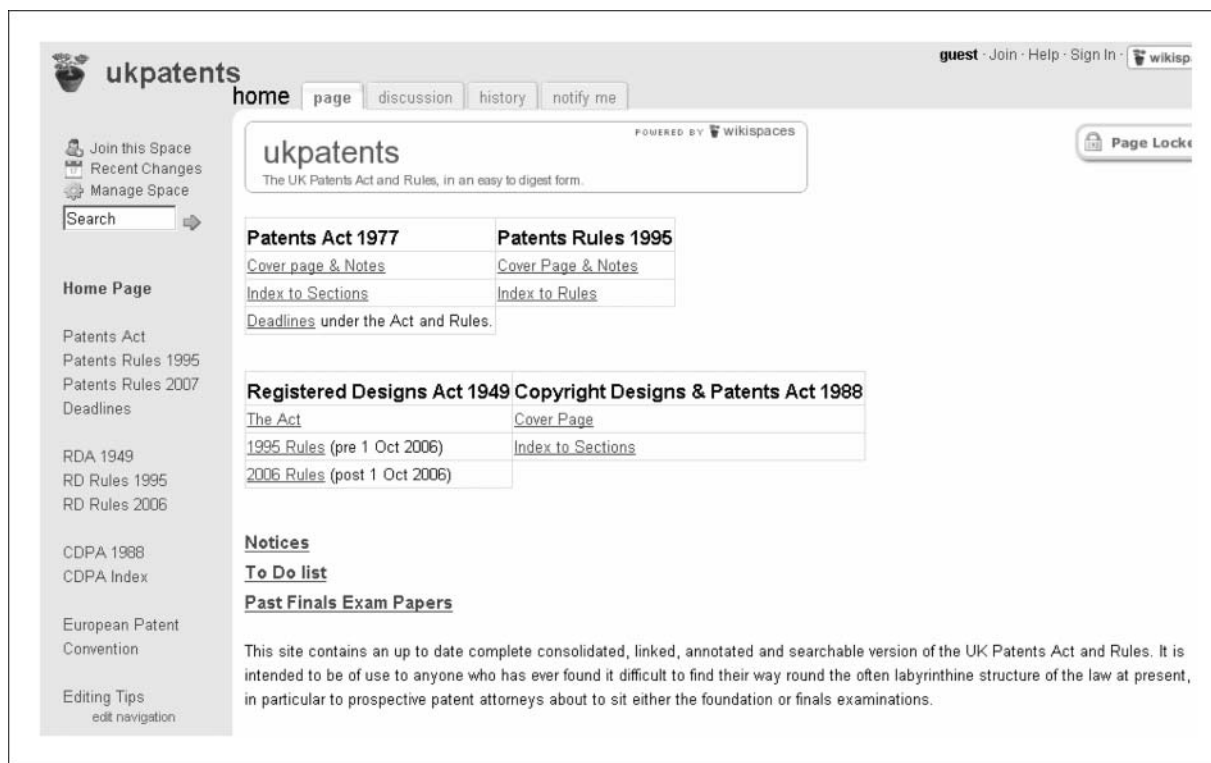


Figure 3: UK patents wiki – legislation tracker

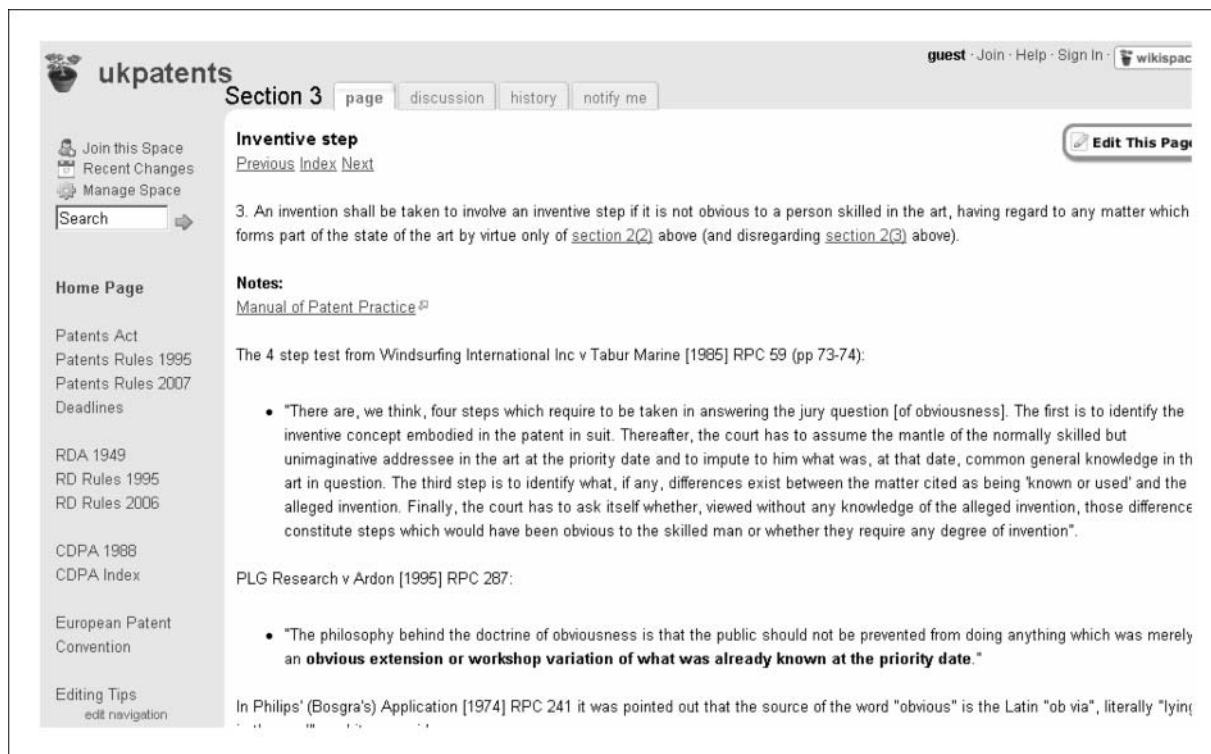


Figure 4: UK patents wiki – legislation tracker

(discussion tab), have its history viewed (history tab) or the user can set up a notification so that he will receive an email alert if any other information is added to this page. This could prove very useful for someone who was

particularly interested in a specific area of patent law (in this case, the issue of 'inventive step') as it would allow them to keep up to date with relevant information that anyone else contributed.

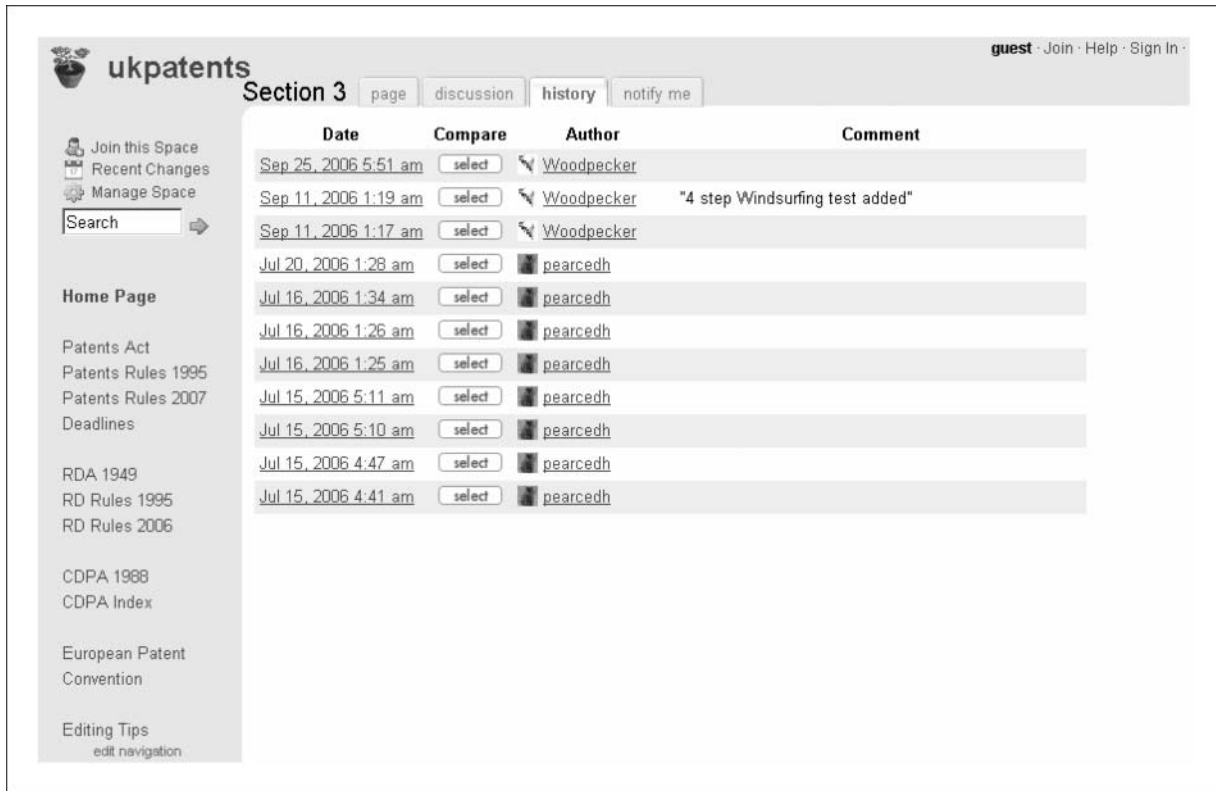


Figure 5: UK patents wiki – legislation tracker

In addition, this wiki would allow people with similar interests to find each other. In Figure 5, the details of the person making the changes are shown, along with a link to their email address. Wikis and Web 2.0 are not just about technology or managing information, but most importantly about connecting people.

The most important question for the content on this site is that of authority. Clearly if somebody is seeking to check a piece of legislation, they would want to know that the information they retrieved was reliable. This is difficult to attain on a site that anyone can alter, be they knowledgeable on a subject matter or not.

However, this wiki contains a potential solution to the problem. Because of its niche market, it is unlikely to be the target of deliberate spoilers or cyber vandalism but, even if it is, the genuine collaborators, who are also likely to be fairly knowledgeable are able to amend or delete any erroneous entries. The key to reliability in wikis is to have more users who are genuine and knowledgeable than not, thus permitting them to act as constant editors and scrutinisers of content.

Also, we cannot always assume that official sources are accurate. When the recent Statute Law Database was launched by the UK government it soon became apparent that it was not entirely accurate.

Scott Wortley, a Lecturer in Law at Edinburgh Law School, commented:

'I have tested this [SLD] against a few statutes I know well and found that there are a number of

inaccuracies. Statutes repealed in 1995 remain on the database with no note of repeal. Statutes passed in 2000 have not had the amendments incorporated into earlier statutes, and one piece of recent Scottish legislation I have written on (which was amended by statutes in 2003 and 2004) has remained unaltered in the database.'

(Taken from blog posting: [http://impact.freethcartwright.com/2006/12/uk\\_statute\\_law\\_.html](http://impact.freethcartwright.com/2006/12/uk_statute_law_.html))

By opening themselves up to constant scrutiny and editing, wikis can become as reliable, if not more so, than even official texts that are closed and updated less regularly.

This wiki has experienced similar problems to the previous example we looked at. In the words of its founder, "It has not yet taken off as a collaborative project." It has proven difficult to encourage others to contribute, as the owner of the wiki is often still viewed as the owner of the content. It tends to be the case that "others give a prod where something has been missed" rather than amend it themselves. This still provides a useful method of scrutiny, but falls short of the ideal of involved collaboration.

However, the site is a good example of how to utilise a wiki, and this model is now being copied by a number of law firms to track new legislation (most notably the new and extensive Companies Act).



## Global Law Firm

Allen & Overy is one of the world's largest and most successful law firms. It has offices in 19 countries and almost 5,000 members of staff. It has recently launched a collaborative software platform with the objective to improve internal communication, encourage greater co-operation between its different functions, offices and practice areas, and facilitate more effect project work.

This system has a single interface, but comprises of two applications: a blog (using Movable Type software) and a wiki (using Confluence). It also utilises RSS feeds on both to enable alerts/notifications to be set up by individuals on both applications.

The wiki is used as a "Group Space" to facilitate project work, consultations, events and know how creation, storage and retrieval.

Figures 6, 7 and 8 show different levels of this Group Space (in this example the London Library Service's space) and demonstrate how easy to use and organise such a wiki is. Not everyone will contribute, but all group members can utilise this space to find out useful information, store their own knowledge and interact with their colleagues.

The strategy for creating and implementing this platform was simple, but effective. The first step was to use existing communities, rather than trying to create new ones. Then the users of each group would be managed; not every user has access to every site. Also,

the service was not pushed out to users, but rather was provided in response to demand (which was even higher than the creators had imagined). Finally, the content would not be over-managed and a fairly relaxed attitude to submissions, tagging, and structure was taken to allow users to acquire ownership of their spaces.

The result has been a popular and well-used site that has opened up many areas of work and enabled collaboration in a previously unexpected way. In the words of the people who set up the site, "The possibilities are endless." Uses will continue to expand and it is likely that the site will evolve considerably in the near future.

## Government Agency

The United States Patent and Trademark Office (USPTO) is the government agency responsible for registering patents for inventions (among other things). It is currently undertaking a trial of a site that will allow external peer involvement in the patent application process.

The "Community Patent Review," as it is known, was first suggested by New York University professor, Beth Noveck, who thought that a wiki would be an effective way to harness the knowledge and expertise needed to analyse patent applications effectively.

The USPTO was finding the strain of the increasing number of applications it was receiving was stretching its

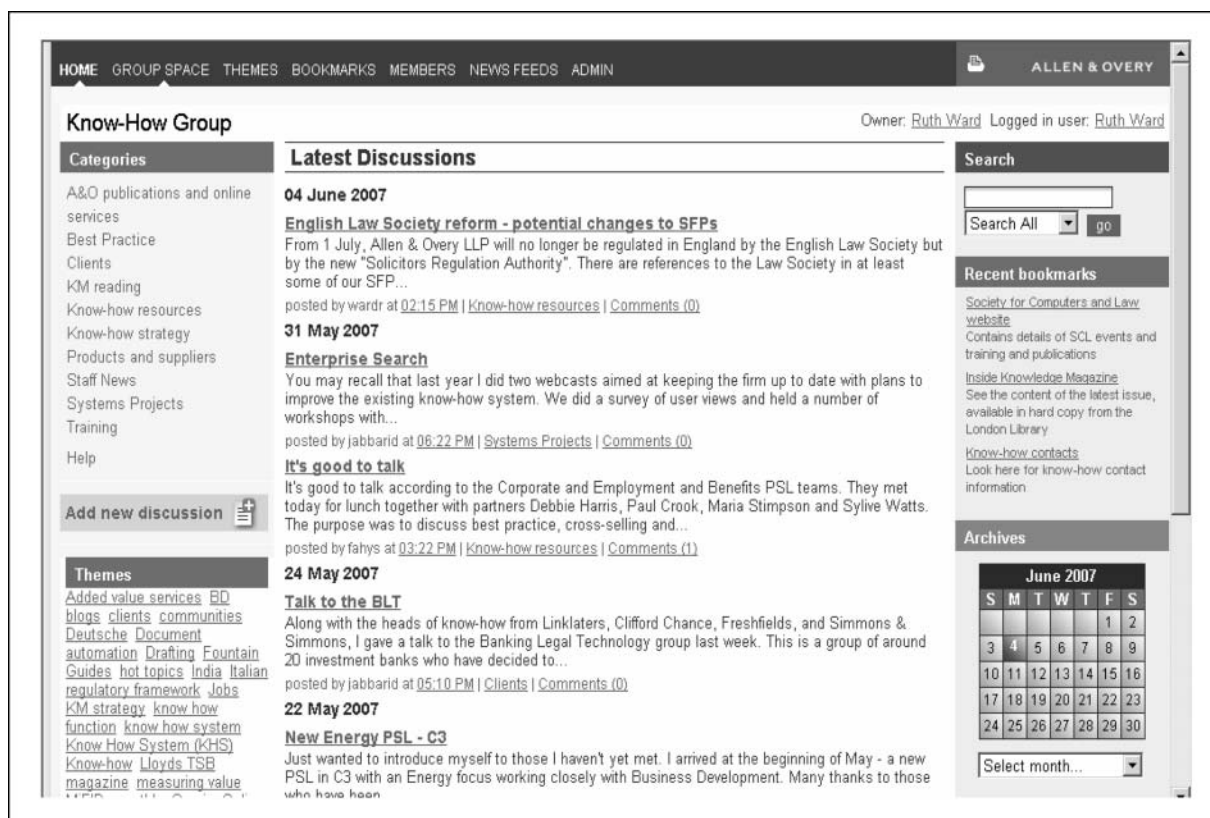


Figure 6: Law firm wiki – London Library Services space

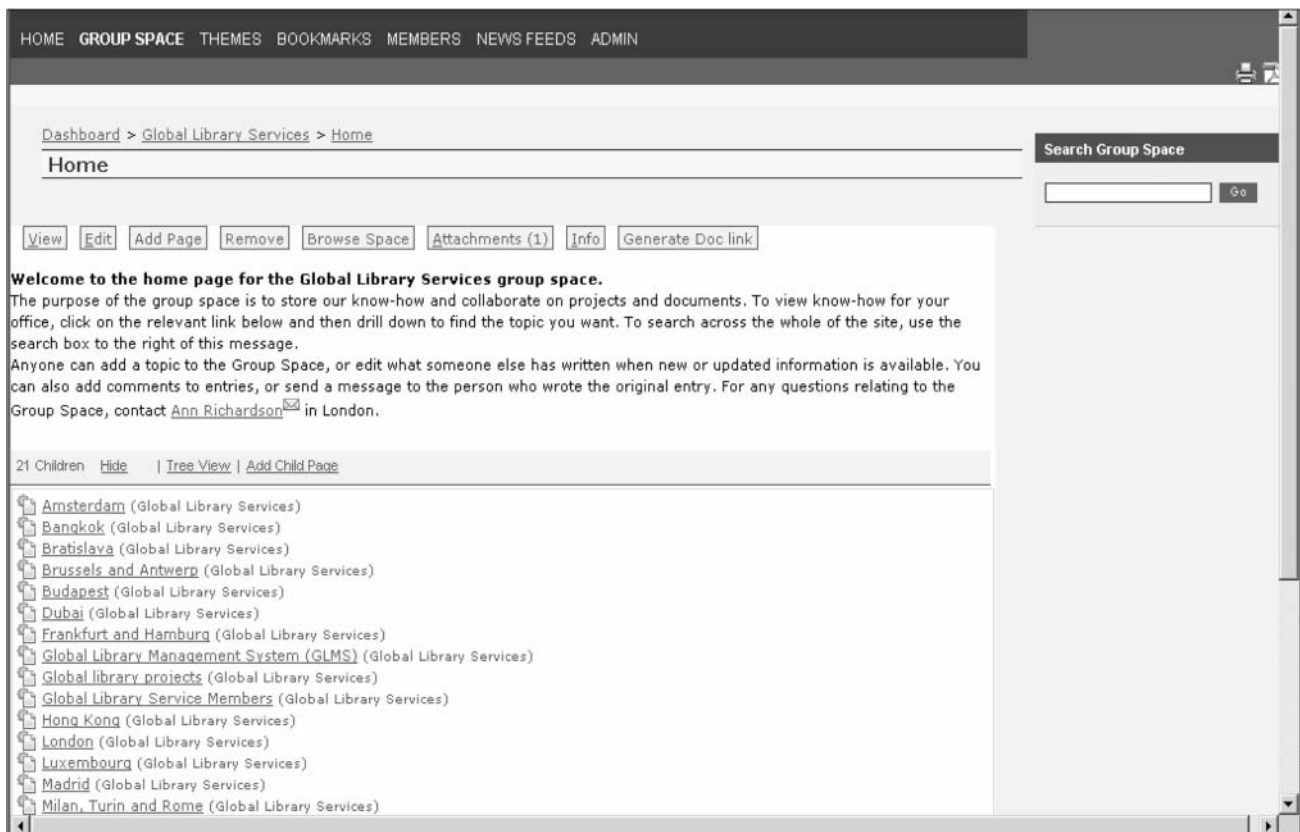


Figure 7: Law firm wiki – Global Library Services Home page

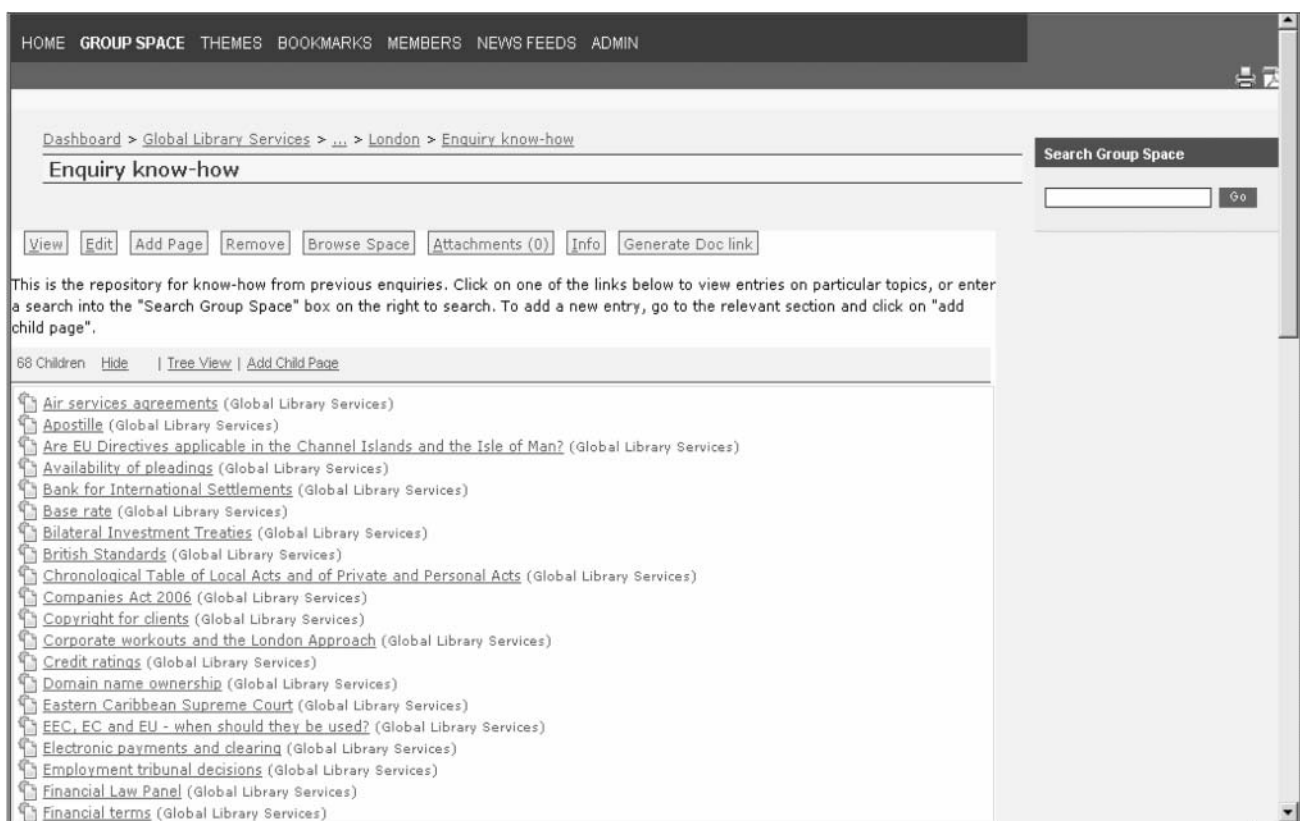


Figure 8: Law firm wiki – Library services repository of know how from enquiries

limited staff beyond its capacity. The idea of peer interaction in this process was embraced because it was felt it could save time and result in more robust patents being granted. This latter reason gained its support from many important patent holders, such as IBM and Hewlett Packard. More than half of all patents are overturned when challenged in court and this can obviously prove disastrous to businesses whose income is dependent on the monopoly that granted patents provide.

Figure 9 shows how the trial site looks and again demonstrates the ease with which collaborators can be brought into a complex process. Contributors can see all areas of the application and comment upon them, add their views to the discussions related to that application, challenge the claims made within it, produce/link to evidence that supports/challenges the application and rate other people's contributions. The USPTO's examiners will then use this information to assess the application.

Strictly speaking, this site is not a wiki, although the initial proposal did set out to create one. In the words of its creators,

“Community Patent Review is not a wiki (though that term conveys the appropriate sense of openness, transparency and collaboration). Rather, this is a software system for open peer

review. We are collaboratively building a knowledge environment about patents”

Just how ‘wiki’ it is will depend on its final application, but there is no doubt that it incorporates the main principles of a wiki, even if it is more structured and centrally controlled than most wikis.

The Community Patent Review might be the shape of things to come in this sense. More and more wikis will operate in a more restricted and controlled way. As serious organisations seek to use them, ways will be found to exercise greater controls and create results that are more reliable and robust.

### Other law wiki sites

Although I hope the four sites I have highlighted above give a good flavour of the kinds of uses wikis have found in the legal sector, there are other examples around too.

- My own (rather experimental) site, which attempts to harness current awareness in the field of intellectual property (<http://ipdailyupdate.pbwiki.com>) has attracted around 10,000 hits in ten months, but like many other sites, has had too few collaborators to make it an effective functioning wiki. I have learned many useful lessons from running the site, but

Figure 9: Government wiki – USGPO – Community Patent Review

acknowledge that a different approach would be required in future.

- PLC, the respected legal publisher, have recently launched a Real Estate Law wiki (<http://wiki.practicallaw.com/display/PROPERTY/Code+for+Leasing+Business+Premises+in+England+and+Wales+2007>,
- Legal Week has a wiki devoted to the goings-on in the country's main law firms - <http://www.legalweek.com/Navigation/36/Articles/1029316/2006-07+results+a+Legal+Week+Wiki+special.html>
- Wikocracy ([http://wikocracy.com/wiki/index.php/Main\\_Page](http://wikocracy.com/wiki/index.php/Main_Page)) invites contributors to suggest and create their own laws. My personal favourite is "The Constitution of the Moon". Although clearly not fully fledged, this could be a useful way for governments to run legislative consultations via a wiki.
- An interesting example of a wiki used to collate case law in one area is at Deathpenalty.schtuff (<http://deathpenalty.schtuff.com/>). Case law is well suited to wikis, given its complex, dynamic and contentious nature.
- And finally, a UK site creating hosting on criminal law, Wikicrimeline, ([http://www.wikicrimeline.co.uk/index.php?title=Main\\_Page](http://www.wikicrimeline.co.uk/index.php?title=Main_Page)) is an established example of how wikis can be used to create dynamic, up-to-date, legal articles.

This list is not intended to be comprehensive, but hopefully gives some ideas of how wikis can be used.

## Conclusion

### Advantages of wikis

Wikis have a number of obvious advantages. They:

- Make collaboration much easier
- Bring simplicity where there was chaos
- Bring people "on to the same page"
- Allow web pages to be dynamic, not static
- Are very inexpensive (sometimes free) and quick to set up
- Require much less direct management than traditional web pages

### Disadvantages of wikis

However, they also have a number of drawbacks.

- It's easier to lose control on a site that is open to its users

- It's not always possible to enforce standards
- Managing content can be complicated (i.e. it's almost impossible to maintain a taxonomy on a wiki, owing to its more open nature)
- Authority of information cannot always be guaranteed
- Requires cultural and mental shift – this is not always welcome in the cautious environment of the law.
- People often are not willing to contribute (the age-old knowledge management problem!)

## Lessons so far

So, what lessons can we take from the wikis we have seen so far?

- Start with an existing community/process
- Keep the site simple/user friendly
- Keep the wiki as open as possible (unless control is absolutely necessary)
- Allow each user to acquire ownership
- Don't be afraid to bend the rules – every group/organisation/problem is different and might require a different set-up
- Don't be afraid to fail – nobody has cracked it yet! Wikis are still in their embryonic stage, so any idea you have might be just as valuable as any of those discussed above.

## The future

We can expect to see many more wikis emerging in the legal sector in the months and years ahead. They are likely to come in many shapes and sizes and will have various applications. We will probably also see sites that, like the Community Patent Review, will adopt the principles of a wiki, but operate in a much more closed and controlled way.

Finally, it is worth bearing in mind that the rate of developments in this area is exponential. When I set up my own wiki a year ago, I couldn't find examples of other wikis in the legal sector. Now there are almost too many to mention in this article. Within the next 1–2 years wikis will become mainstream. Now, therefore, is an ideal time to jump into the wiki world and learn more about how they work. Become the person that others in your organisation turn to when they want to set up or manage a wiki. Steal a march on your colleagues in IT, marketing, internal communications and other functions where wikis have a practical application.

Nobody is better placed than librarians to understand the challenges and opportunities presented by wikis, so don't hold back – go forth and wikify!



## Biography

Martin Farley is the Intellectual Property/Information Technology Librarian at Freshfields Bruckhaus Deringer in London. Before that he worked as an Information Officer at Linklaters for 3 years and as a Library Assistant in Edinburgh City Libraries for 3 years prior to that.

He has written about wikis before for the *Journal of Intellectual Property Law & Practice*, while also appearing on a radio discussion programme on wikis for the Legal Talk Network in the USA. Martin is currently working on a chapter on collaboration in law firms for the book, "*Blogging and other Social Media: Technology and the Law*", which, of course, is being written collaboratively on a wiki (see: <http://humanlaw.pbwiki.com/>).

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# Bird & Bird: Our Approach to Knowledge Management

**Abstract:** In her Conference presentation Kathryn Pearson discussed Bird & Bird's approach to Knowledge Management (KM). She considered the skills needed to become a legal knowledge manager and how these differ from those needed in Library and Information Services (LIS). She reviewed the merits of KM and the firm's approach to KM from three angles: people, process and technology, giving examples from recent KM projects.

**Keywords:** Knowledge management; law firms

## From LIS to KM: what makes a (legal) knowledge manager?

Having made the move from information officer to knowledge manager relatively recently, I have spent some time considering the skills required to fulfil successfully the role of legal knowledge manager. Do they differ discernibly from the skills set necessary for an LIS role and, if so, in what way?

As an information officer at Freshfields I had a very well defined area of expertise. Principally, my knowledge of legal and business databases. I knew exactly which databases were available, what they covered and how best to search



Kathryn Pearson

them. I also understood the pressures fee-earners were under and was able to respond promptly and efficiently to requests for information. I was the dedicated information officer for the competition practice group, which meant that I was able to build up a detailed knowledge of competition law sources and relevant sectors (such as the regulated industries: electricity, gas and water).

Dealing with research requests every day gave me an insight into the day-to-day business of the firm. I knew what deals the competition group were working on (as well as other practice groups), what types of legal issues the lawyers were researching, and also how they were using