Top 10

Trends for legal and beyond in 2019

Next year will change the industry - but not from within, and oddly not through technology alone

By David Holme CEO and Founder, Exigent

2018 was a **transition year**

Every year, we like to play at predicting the future. We are not fortune tellers but looking at what's coming our way and capturing the Zeitgeist is fundamental for a transformative business like Exigent, especially in an industry like legal, where change has been on the cards for years, without ever materializing in the dramatic way everyone expected. Law firms still exist. Lawyers still overbill their clients, block bill and ignore Service Level Agreements (SLA). Many SLAs stipulate that firms are obliged to investigate working with low cost providers: we all know that in 2018 this is systematically ignored in 100% of the cases. Law schools haven't changed curriculum substantially in...well, for ever. Adding a technology module is pretty comical.

Last year we predicted the Big Four would steal the show, and they did. They continue to charge without an ounce of humility, and we don't see why they wouldn't. While not all lawyers will work for the Big Four by 2026, as Ron Friedmann suggests, it is clear that the accountants are onto something. In 2018 they have proved to be pretty smart about the sectors and markets they want to exploit. For example, they have been taking on immigration work as a pathway into taxation, packaging up their multi-disciplinary services in an attractive way. Much in the same way, the Big Four are offering legal due diligence coupled with the financial, tax and pensions services, offering themselves as the one-stop shop that is so convenient for clients.

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And as far as how Big Law has been coping with new entrants and challengers, there are now several hundred Alternative Business Structures in the UK (manifesting themselves in the non-legal ownership of law firms), yet a widespread adoption of this model has not been seen. Big Law has responded in the way we predicted last year: meaningless mergers, small average firms combining to be larger average firms. We called a failure, and there have been plenty.

For full transparency, last year we foresaw consolidation, but not in exactly the right areas. We didn't see the CVC Capital Partners deal with Unitedlex, which was eye-catching.

What is clear, though, from looking back at 2018 is that the Alternative Legal Services Provider segment is now mature beyond a point where the advisory suppliers (law firms) can squeeze them out of the market. The market likes them too much for their simplicity, efficiency, and uncomplicated client service- and for actually understanding concepts like 'AI' and 'Automation' without charging clients for time spent Googling for definitions.

As we anticipated, this year has also seen more than a few utterly meaningless articles about large law firms 'adopting' technology. This feels a bit like announcing you are marrying your daughter's best friend. Not a marriage meant to last and the rest of the family (partners) don't much like it, even if it's fun to look at for a while. If anything, the way in which traditional law uses concepts like 'AI' and 'Automation' demonstrates only a partial understanding of how things are shaping up.

2019: All change!

Overall, we think this year will change the industry - but not from within, and oddly not through technology (alone). The global economy is likely in for some significant changes, and the players in this space are ill-equipped to deal with it. Never have we thought of law firms as nimble, shrewd and business-savvy, and we won't be proven wrong. In-house teams must also stay alert, as those who understand money-making, especially in tough times, are coming in. Private Equity will change the face of law this year. Technology will hold on, with big names making waves, but data will play the real lead role. But let's go in order.

01 – The economy will impact legal more than any other sector

When you consider that growth in the law firm sector has been anemic since the 2008 Global Financial Crisis, while markets and tech have raced ahead, this sector has most to fear from a reversal in global growth. In truth, not much has changed in the model in the last decade.

Expect some bold (dare we say, creative) service lines from the Magic, Silver or any other circle. The Blockchain band, eSports ensemble or even the Marijuana medley will cautiously slide into their seats next to the M&A and Tax teams.

As the US boom starts to fade, market consolidation will accelerate, and failures will rise. We believe the stimulus is designed to keep the show on the road until the elections in 2020, but 2019 should be a year for putting the storm shutters up. Except, most firms will not. They will continue to inflate newly qualified salaries in a manner that would make Lewis Carroll proud.

Across the pond, the anticipated shift of financial services from the UK to continental Europe post-Brexit will leave a gaping hole in many a legal timesheet.

Look out for various collections of 'disruptive' young lawyers gracing the front pages of legal magazines as the new face of law and legal discipline. All of this, while the average client pages through the mag to see if there is actually any juicy information, like software shootouts and pricing wars if they're lucky.

02 – B4 and ALSPs will continue to chip away at Big Law

After the "End of Lawyers" was published in 2008, there was a chorus of disapproval and cynicism. For five or so years the resistance to change was impressive because, whilst the world knew the legal industry was committing spectacular and widespread overbilling and clinging to a pre-industrial model of self-serving inefficiency, there were no tanks on the lawn. Now there are. The Big Four and the Alternative Legal Service Providers (ALSPs) have not been wished away; far from it. According to Acritas, they now have extremely high brand recognition in the market and are typically 10 times bigger than the world's largest law firm. Yes, you read that right, 10 times. They have deep pockets and multi-disciplinary capability way beyond any traditional competitor.

Last year Thompson Reuters' Alternative Legal Service Study revealed a seismic shift with 51% of law firms and 60% of corporate legal departments currently using Alternative Legal Service Providers for at least one type of service. And those numbers are expected to grow.

The Big Four will have a barbecue at the remains of these vanity projects similar to King & Wood Mallesons last year. Putting a brand above the door simply doesn't transform delivery.

The all too often weak and old-school management of the lower top tier of traditional law firms leaves them especially vulnerable and easy prey. In 2019 we are likely to see more deals like the alliance between Deloitte and Berry Appleman & Leiden LLP, as well as the break-up of at least one-second rate brand that has overextended itself.

Expect a deal a month from the Big Four and continued merger activity with the traditional providers. There will be a few breakups and divorces like the Deloitte Conduit Law LLP fall out. We foresee more activity from the accountants in consulting, process optimization and staffing, as they ape projects such as A&O's staffing and consulting solution.

Signs from the East are also ominous: PwC and EY have launched legal intentions in Singapore and Hong Kong recently, with Deloitte Legal International landing in Singapore as well. Similar regional assimilations will form over the next 12 months, with emerging markets looking good for a similar strategy. The simple truth is they can afford to make mistakes and have abundant financial resources to stick with it for the long term.

03 – Private Equity will take over the legal sector through ALSPs

Slow at the beginning and weary of the legal industry at first, the private equity tank formations have now arrived. They invest in sound cash-generative businesses in growth markets, so, as legal isn't growing, they focus on ALSPs. Private Equity funds have the firepower and they won't be investing in businesses that have limited ambitions or traditional management. This has the implication that, with meaningful investment to back them up, ALSPs will soon be serious technology and subject expertise players. Consolidation will also be on the cards, of course. And a lot of it, as well.

With its 'scaling fast' gospel, PE houses won't leave in-house teams alone: they will be 'acquired'. The acquisition of Lawyers on Demand, Prime Clerk, Williams Lea Tag, and UnitedLex means consolidation will become a necessity in a 3 to 4-year timeframe. This will be the year that Axiom has to make a move, but we would think an IPO is pretty unlikely. The staffing model may suffer if there is a significant downturn, as it has in every other recession without exception.

The 2016 Deloitte Paper 'Future Trends for Legal Services' called out that 44% of in-house teams consider 'doing more with less' as their biggest challenge, while only 11% regarded the appropriate use of technology as paramount. Look out for a big reversal in 2019 as tech consolidation and experience concentration starts making a real mark.

04 – One law firm will float

These two forces, the Big Four and ALSPs, together will reshape legal services provision. Everywhere. Law firms exist in a single-digit growth market, but the deals done are at 12-20x multiples, implying ALSP growth rates of 15-30%. You've got to believe the Private Equity funds have picked their winner, and it surely is NOT a law firm. Law firms will try to ape the Big Four and acquire ASLPs, but they will need an external source of capital. Desperate to be relevant again, one or two law firms might float or try this at the top of the market. It will be a disaster.

05 – Technology start-ups backed by law firms will not live long nor prosper

The technology sector in this space has long been touted as the next big thing. Lots of start-ups, flattered by the attention of law firms, announce the next big thing. Some will succeed. 90%, if not more, will not, for good reason. Serious tech start-ups don't need legal advice, they need a long-term funding partner, an investment strategy and expertise. And that's just to play.

The focus for meaningful change and impact should be on combining corporate finance and technology expertise, not on small-scale law firm investment. That's why not a single legal startup or accelerator backed by a law firm will come to market in 2019. Forcing legal technology onto clients simply for the sake of it is just not working. Technology integration is the key, but that requires experimentation, true innovation, and risk. None of these are, and will never be, associated with the traditional legal practice.

06 – Legal data will be the key to change, but it will bypass GCs if they are not careful

Corporates are likely to be the first ones to initiate change through technology, and more specifically through finally realizing the value of legal data. Corporate boards will recognize it long before their legal teams. There are massive multiplier effects from combining data across a company and breaking down barriers between skill sets. Cross-functional data will make all the difference and only teams with real interest in exploring neural network mapping, NLP, financial and legal data concatenation will succeed. The output emphasizes that legal is just one contributor to corporate success, and AI is only one element of success.

2019 will be the year of the data democracy, so brace yourselves if you are not friends with data.

It's the integration of systems and the design thinking that surrounds your innovation strategy that is required. Realistically, in-house legal will not sufficiently embrace this opportunity but will have it foisted upon them. GCs will gradually come under the control of finance and the COO and will lose corporate influence as a result, except for risk-related purview. They will continue to resist the notion that disciplines (law, finance, procurement, and technology) must intersect and lawyers have to operate at these intersections.

07 – Large tech players will kill some litigation tech and more derivative applications

While niche legal tech providers continue to hold station for a little while longer with narrow offerings like eDiscovery solutions and matter management tools, other players are spending strategically at far greater rates than before and changing the landscape of legal technology. For example, OpenText has made a $310 million move to acquire a data management firm, Liaison Technology. If you include the acquisition of HighTail, Inc (file-sharing), Guidance software (forensic security), Recommind, Inc (eDiscovery and Analytics) and ANXeBusiness Corp (cloud computing) in the past 24 months, there are more new giants emerging.

But, that isn't the end of the tale. The shadow of Microsoft and Google is long. The power of knowledge and ready-made access to information and automation is real. Microsoft well understands that the majority of litigation products use its ubiquitous technology. Google likewise understands that document automation is a lower quartile technology.

So, we think that Microsoft will flex its muscles and derivative tech will buckle. Expect a few casualties in the litigation space with wilting margins and low growth. A web-application based approach (the Google way) will bring ease-of-use drafting, data room management and collaboration to a place near you.

Overall (and this applies across the spectrum) law firm and legal tech providers are minnows- SAP is excused, but their legal offering is secondary. In fact, legal tech providers are pilot fish on minnows. A shake of the tail by the large players and/or their backers is in 2019 a real likelihood.

08 – Legal Operations as a fashion has peaked and will plateau

For a minority of corporates there is a sense that Legal Operations is the future. We don't mean to rain on the parade, which frankly has helped us to start good conversations on the future of the legal department. But the many incumbents in a minority sport are ill qualified for the role, having no process or finance experience.

Attending a conference or two on legal operations does not maketh a Legal Operation Director. In many ways this group can't win: not a lawyer? Lawyers don't listen. Lawyer? Limited real operational skills or training. Let's face it: there is zero chance the operational skills in the legal department are being eyed enviously in other parts of the business.

We believe the interest in Legal Operations is only a precursor to real change, rather than change itself. It is a recognition of a requirement, but that recognition may already be too late. Legal Ops is irrelevant to corporates, and at best reflects the already embedded cynicism about the ability of legal departments to actually run an efficient shop.

"Two years ago legal ops was sexy, and we swapped ideas. Now it is group therapy", a senior GC told me recently.

Conferences on legal operations will continue to expand their programs and symposiums, but these are over-priced boondoggles that bring people together to talk about the present when we are already living in the future.

The good news is: 2019 will be the high-water mark. Why? The future is about cross-functional, departments, cross-operational teams, and data expertise, not more silos of specialist staff.

09 – Blockchain will find real commercial application in legal

After all the hype around AI and Blockchain, in 2019 the dust will settle a little. Only the serious players will remain standing, and meaningful applications of blockchain for legal will see the light in fintech and compliance. There has been a serious, concerted and on-going investment into blockchain for the financial services and this will come to fruition in 2019. With JP Morgan leading the pack, the fintech blockchain shift will initially focus on payments, but will soon move to include smart contracts.

The eye-watering investments made into blockchain- not by traditional players, who still don't get it- will have repercussions for the legal industry and anybody involved in contracting.

When you think that algorithmic trading is already a well-established practice, it's easy to see how smart contracts through blockchain will be the be next step. With the massive increase in the volume of algorithmic trading, we will also see an increase in the volume of contracts. And if there's a mistake in how the machine creates a rule, the ripple effect is huge. Legal will have to deal with who is liable for such mistakes, which will inevitably be multiplied at an amazing rate. Or what happens when the system crashes? Automation will be great for the speed of contracting, but in the same way that data breaches are now a daily occurrence and part of corporate life, we should plan for the ripple effect of mistakes in smart contracts because it will happen. Soon and often at first; and it will be a big deal. But it is the future.

Another very real, and sensible application for blockchain is compliance. It just makes sense: blockchain creates an immutable audit trail, which can be the key for compliance across several industries and sectors. It is likely that there will be emphasis on areas such as labor practices and immigration (especially in the USA), because through blockchain employers and public authorities will have an unchangeable record of employment, making the compliance process transparent, quick and trustworthy.

The interest is palpable: this year the State Government of Colorado passed legislation that encouraged its agencies to investigate how they can leverage blockchain.

Senate Bill (SB) 18-086 requires the governor's office of information technology (OIT), the department of state, and the department of regulatory agencies to consider using encryption techniques and blockchain technology in order to protect confidential state records from criminal, unauthorized, or inadvertent manipulation or theft.

While part of it is a PR effort to place Colorado on the map as a blockchain hub, it does indicate there is an increasing realization of its power and momentum right now.

10 – GDPR will continue to make for a sexy offering but in a more mature way

The current frenzy that is GDPR compliance will make way for a rational, commercial approach to information governance. The fines and notices are flying now, but in the aftermath, we are likely to see the real bright minds focusing on mastery of the practical impact of GDPR. Expect to see a few Blockchain systems that are GDPR compliant, and many, many consultants and change managers touting their wares in the data protection marketplace.

Ultimately, GDPR is a compliance issue, so blockchain (see above) will sublimate a good deal of the technology out there at the moment. While law firms jumped on 'project fear GDPR', selling their legal services on the basis of an ill-advised 100% risk for the business, nobody really used technology smartly. A lot of technology was developed for GDPR that simply wasn't leveraged in any significant way, while advisors were making profits through traditional consulting models. It was an over-hype and over-charge paradigm. This will disintegrate in 2019.

Cheers to 2019

It's not all doom and gloom. Yes, the economy will throw the industry some curve balls, but any difficult time is also an opportunity to do things differently. And boy, does the legal industry need to take that opportunity. The choices that should have been taken in 2018 have largely been ignored. With a change in economic circumstances, change by choice will feel a little quaint by 2020, so 2019 is the year of action. We're ready for it. Are you?

About **Exigent**

Exigent is a global alternative legal services provider operating at the intersection of law, business, and technology. With a worldwide team of over 400 attorneys, business analysts, developers, and consultants, Exigent is transforming the way legal services are offered by applying analytical thinking, smart use of technology and inventive talent, to deliver answers that impact every aspect of business performance.

Exigent's contract management solutions and business analytical tools help the C-suite, in-house counsels and law firms to reduce risk, improve compliance and drive process and cost efficiencies.

International clients trust Exigent's powerful combination of technology, consulting and legal services in the US, Canada, UK, Australia, and South Africa. Cross-cultural and inherently borderless, Exigent has eight offices around the world, with three operating centers in Bangalore, Cape Town, and Perth. For information about Exigent visit exigent-group.com.

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